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Historical Collections.

The Second Part,

Containing the

PRINCIPAL MATTERS

Which happened from the

Diſſolution of the PARLIAMENT,

On the 10th of *March*, 4. *Car.* I. $162\frac{8}{9}$.

Until the Summoning of another *Parliament*, which met at *Weſtminſter*, *April* 13. 1640.

With an Account of the Proceedings of *That* PARLIAMENT; and the Tranſactions and Affairs from that Time, until the meeting of another PARLIAMENT, *November* the 3*d* following. With ſome Remarkable Paſſages therein during the firſt Six Months.

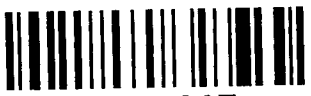
Impartially Related and Diſpoſed in ANNALS.

Setting forth only **Matter of Fact** in **Order of Time**, Without *Obſervation* or *Reflection*.

By *JOHN RUSHWORTH* of *Lincolns-Inn*, Eſq.

30867

LONDON:
Printed by *J. D.* for *John Wright* at the Crown on *Ludgate-hill*, and *Richard Chiſwell* at the Roſe and Crown in St. *Paul's* Church-yard, 1680.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THE PREFACE.

MY former Collections having bin found useful, and the intent of the Second Part being only to lengthen the same Clue, that may guide the Reader through the dark Labyrinth of more Years, there's the less need of an Introduction to this Book.

I seem to come to my Reader where I left him, and to give him my Hand to lead him into the further knowledg of what hath bin done in his own Country; I take it to be the great Business of every Man's Life to learn what the World is, and what hath bin done, and what is doing in it, and upon the Whole to judg what he ought to do; and it is but fit that of all parts of the World, every Man should know his own Country best.

For that reason I have chosen to be a Collecter of Matters of Fact, rather than to write in the usual form of Historians, to pretend to have seen into the dark Closets of States-Men and Church-Mens Minds, and to have viewed and measured the first Models by which they wrought. In such an Attempt I might have bin a false Guide to my Country-Men against my will, and had assumed to my self to be wiser than they.

But whilst I entertain the Reader only with a true and simple Narrative of what was done, and by whom, and when, every Man is left to his native freedom to judg of Men and Things, to find out the Causes by the Effects, to compare Transactions past, with such as now occur, to make his own Comment upon every Fact, and from such Text to read to himself his own improvement, Lectures of Prudence, Policy, and Morality.

The Reader should not have staid so many Years in the Dark, where I left him, at the Dissolution of the Parliament 4 Car. 1. if I could have bin sooner permitted to have sent him through the Press.

These

These further Lights every considering English-Man *knows in general, that after that time there was a great change in the way of the* English Government, *no Parliament being held for twelve Years and upwards; one only met without making a Session by passing an Act, and was Dissolved within three weeks.*

I suppose most Men cannot but wish to know in particular the Arts and Methods used in Government *in such a long suspension of the Exercise of the Supream Legislative Power, so that neither the* King *could have any Assistance from the* People, *to support the Honour, Strength, and Interest of the Nation; nor the* People *any Relief of their pressing Grievances, or any Provisions made by Law for the Security and Advancement of their common Welfare.*

I hope every studious Reader *may reasonably satisfy himself by the following Papers, of the true State of the* Government *and* Kingdom, *during the discontinuance of Parliament, whilst I keep my self close to my* Province, *of relating only in my* Annals *the several* Proclamations, Commissions, Instructions, Orders, *or* Acts *of* Council-Table, Patents *and* Grants *which then passed; together with the prosecution of the same, by* Judgments, Decrees, Orders, *and other Proceedings of the Courts of* Star-Chamber, High-Commission; *of the* President *and* Council *of the* North, *and several other Courts.*

It will be the Reader's *part to call them all into Judgment, to Try, Condemn, or Acquit them, according to their several Merits; it belongs to him, by forming Inductions from the particular Facts, to enable himself to understand the Designs then managed, and the Methods propounded to effect them.*

The Reader *may with ease, by Reflections made upon these* Annals, *inform himself by whose Counsels the King steered in his Government during th' long Intermission of Parliaments; What Means and Methods were designed, practised, or attempted to levy Mony for support of the King in his way of Government without Parliaments; What unusual Powers of Judicatory were assumed and exercised in the menage of the Government during that time; What Principles and Maxims in Law were endeavoured to be established; What Doctrine and Discipline were obtruded upon the Church of* England; *And what were the Effects and Consequences, not only in* England, *but also in* Scotland *and* Ireland, *of the manner of governing whilst Parliaments were discontinued.*

Perhaps these Collections *may be read by most occasionally; sometimes the Reader may desire to be satisfied what was done upon*

some

ſome Emergency or notable Accident; and ſometimes to ſee a particular Argument in Law, or a Deciſion of ſome memorable Caſe, or the Tranſactions of ſome one Year, (few having leiſure ſo deliberately to read all theſe Annals, *as to obſerve nicely whoſe hands were moſt conſtantly upon the Helm of the Kingdom, from* 1629 *to* 1640, *or by what Rules they ſteered, either in the Matters of State, or the Diſtribution of Juſtice, or the Affairs of the Church); and for that reaſon it may be an eaſe to the Reader to know before-hand the Perſons that were upon the Stage, or in the Retiring Room, in every Scene of the whole Interval of Parliament, and the ſeveral Parts they acted.*

The principal Conduct of all Affairs about the Government, was committed by the King to three of his Council, Dr. William Laud *Arch-Biſhop of* Canterbury; James *Marqueſs of* Hamilton, *after Duke* Hamilton; *and Sir* Thomas Wentworth, *after Baron, then Vicount, and laſtly Earl of* Strafford; *many other noble Perſonages were of the King's Council, but the Power and Authority reſted in theſe, whoſe Advices and Reſolutions in all the Matters of State and higheſt Moment* [*by their conſtant correſpondence when they were far diſtant each from other*] *were brought to the Council Table for Countenance and Execution.*

Theſe three great Miniſters of State had each his more peculiar Province, *yet they had all an influence on the whole* Government. *The Earl of* Strafford *reſided much in* Ireland, *and was buſy to execute there the Advices which he had given his Maſter at the Council-Table, and ſuch mutual Advices as were conſtantly given and received between the Arch-Biſhop and him. The Marqueſs of* Hamilton *had the Conduct of the* Scotiſh Affairs, *yet with the concurrence of the Arch-Biſhop, who preſided in all the moſt ſecret Councils concerning all the three Kingdoms; and the Addreſſes in Matters Temporal as well as Spiritual, were made through him to the King by the moſt Noble Perſonages. This* Triumvirate *was ſolely depended upon for Advice in the greateſt Exigencies of the* Crown. *It appears by the Arch-Biſhop's own* Diary, *that after ten Years diſcontinuance of Parliaments, the Advice was from theſe three great Men to the King to call a Parliament; the Arch-Biſhop entred it upon the 5th of* December 1639, *thus:*

The King this day declared his Reſolution for a Parliament, in caſe of the Scotiſh Rebellion; and the firſt Movers of it were, the Lord Deputy of *Ireland*, the Marqueſs of *Hamilton*, and my Self; and the Reſolution voted at the Board to Aſſiſt the King in extraordinary Ways, if the Parlia-

ment ſhould prove peeviſh and refuſe, &c. *And before the Council did then riſe, it was declared the* Parliament *was to meet the* 13*th of* April, 1640.

The Reader *will need no fuller ſatisfaction of the influence which this* Arch-Biſhop *had upon the* King, *than his own* Diary; *and for that reaſon I have inſerted it in the beginning of ſeveral Years in theſe* Annals: *Not knowing how to relate more impartially, or to evince more clearly the truth of the* Matter of Fact, *which that* Diary *contains, eſpecially in ſome particulars, which would have bin of very doubtful credit, had they dropt from any Pen but the* Arch-Biſhop's *own.*

I ſhall inſtance only in one Fact *entred in this* Diary; *the* Offer *made to him by a Meſſenger from the* Pope *of a* Cardinal's-Cap, *and his Anſwer,* That ſomewhat dwelt within him which would not ſuffer that, until *Rome* were otherwiſe than it is. *Few would either have believed that the* Papiſts *Deſigns of ſubverting the* Proteſtant Religion *were advanced in thoſe days to that height of Hope, as to attempt the* Metropolitan *of* England *to accept of ſuch a Preferment from* Rome, *or that ſo great a Counſellor and Miniſter of State to the* King *ſhould ſuffer ſuch a bold Attempt againſt his Crown and Dignity, and ſuch an Underminer of the* Proteſtant Religion *to paſs away unqueſtioned, to proſecute his* Treaſonable Deſigns, *of* Introducing a Foreign Power and Religion.

I cenſure not that Great Prelat *for what he did, or omitted; but I give the* Reader *the reaſon of my inſerting his* Diary, *being willing to put it out of doubt who were the* King's *moſt confiding* Cabinet Counſellors *in the Years whereof theſe* Annals *give an Account.*

After the Diſſolution of that Parliament, *wherein the* Petition of Right *was granted, a* Proclamation *came forth, forbidding the People to raiſe or nouriſh* Reports *or falſe* Rumors *of* Parliament; *and it ſeems (by what followed) the* Kingdom *for twelve Years together was governed without a* Parliament.

One of the firſt Fruits of thoſe Advices to the King, was to provide well for the Support of his Crown, *that there might be ſufficient Supplies of* Monies *to anſwer all its* Wants *during the Intermiſſion of* Parliaments, *and there wanted not thoſe that had variety of* Inventions *to draw Mony from the People, whilſt none could be charged upon them in the Ancient* Legal Courſe.

The firſt Advice that was given, was not only to continue Tunnage *and* Poundage *without any conſent of* Parliament, *but alſo*

to

to inhance the Book of Rates *upon ſeveral Merchants Goods, and the Collections of ſuch Rates to be enforced out of the Courſe of ordinary* Courts of Juſtice.

The next Deſign for Mony *was, by* Proclamation *to revive an obſolete Law about* Knighthood, *under colour whereof Summons were ſent throughout the Kingdom to every Man poſſeſſed for three Years of* 40 *l.* per Annum, *who did not appear before the* King *at his Coronation to be made a* Knight, *to ſubmit to ſuch Fines as they could compound for; and* James Maleverer *of* Arncliff, *in the County of* York, *Eſq; put himſelf upon the Judgment of the* Court of Exchequer, *what Fine they ſhould think fit to impoſe upon him: but the* Court *doubting the Law would not bear them out, refuſed that* Regular Courſe *of impoſing a Fine, and put the Party ſubmitting, to go and compound with Commiſſioners in the Country, contrary to the intent of the Law.*

Another Advice to advance the King's Revenue, *was, To grant* Patents *under the* Great Seal; *by which* Monopolies *were created, in a manner, of all ſorts of Commodities; as* Soap, Salt, Wine, Leather, Sea-Cole, Cards, Pins, *even to the ſole* gathering of Rags; *which Projects were countenanced with the name of* Incorporations. *And the Titles of all* Proclamations *countenancing the new* Corporations, *as well as* Proclamations *of* Matters of State, *are put in the end of every Year, in order of Time, in the Body of the* Collections, *and ſome in the* Appendix.

Another Advice was given, to raiſe a Revenue *for the* King, *by granting of Commiſſions under the* Great Seal *for* Offenders to Compound; *and the better to effect the ſame, ſome* Examples *were made by Sentence in the* High Court of Star-Chamber *againſt ſeveral Perſons, to pay great Fines, as for* Depopulations, Nuſances in Building between High and Low-Water Mark, *for* pretended Encroachments upon the Foreſts, *with other things of that nature, and accordingly Commiſſions were iſſued out, and Offenders in that kind did compound, which brought in a conſiderable Revenue.*

But of all the Inventions for raiſing of Monies during the Interminſſion of Parliaments, *the* Ship-Writs *(as they were called) for impoſing* Ships *and* Furniture *upon every part of the Kingdom, upon the* Inland *as well as upon the* Port-Towns, *and taxing Mony for the ſame at the* King's *Pleaſure, by his Writ expreſſed; and that as often and in as great proportion as his* Majeſty *ſhall judg needful, was the greateſt diſſatisfaction to many of the Nobility and Gentry; they alledging that way of Supply included in it ſelf a claim of the* King's *unto the whole* Eſtates of the Kingdom, *when he would ſay he wanted*

Monies upon that occaſion, the Judges having then declared the King *to be the ſole Judg of the Danger.*

The Diſputes and Conteſts that aroſe from this way of levying Monies, will be found in the following Annals; *and the Author hath related that great and memorable Caſe of* Ship-Mony *more fully than others, becauſe there is ſo much excellent Learning ſhewed in the* Arguments *made therein before all the Judges of* England *in the* Exchequer Chamber, *which were never yet publiſhed in print: therefore he hath ſelected out the* Arguments *made by two of the Counſel,* viz. Oliver St. John *of* Lincolns-Inn *Eſq; his Argument for Mr.* Hambden, *and Sir* John Banks *Kt. the* King's *Attorny General his* Argument *for the* King; *both which, and all the Arguments of the reſt of the Counſel, as alſo of the twelve Judges, the Author took with his own Pen* verbatim *(as near as he could) except ſometimes through defect in hearing, by ſome accidental interruption, a Word, or the exact time of a Record, or other Paſſage might happen to be omitted.*

In theſe Arguments *the young Students of the Law will find Matters of great Antiquity before the Conqueſt, mentioned as pertinent to this Caſe, out of Ancient* Authorities *and* Hiſtorians *in the time of the* Saxons *and* Danes, *made uſe of as introductive to this* Caſe *of* Ship-Mony. *And ſuch mention is alſo made of* Matters of State, *as comes near* Arcana Regni, *of a higher nature than the* Arguments *in any other known* Caſe, *the higheſt* Prerogative *of the* King *in Caſes of the greateſt Exigency being there brought into debate.*

And that the Reader *may more clearly judg of the Conſequence of the* Caſe, *the Author hath annexed an Account of what Mony was levied out of every* County *by virtue of this* Tax, *the ſame amounting to about* 200000 *l.* per Annum *for five Years, as may appear by the inſerted Account of Sir* William Ruſſel *then Treaſurer of the Navy.*

The Reader *will alſo find in theſe* Collections, *a large Account of the* Proceedings *in the* Court of Star-Chamber *for ten Years; ſome* Caſes *are briefly reported, others more conſiderable are ſet down at large; with ſome* Speeches *made by the* Lords *when they gave Sentence in open* Court, *as in the* Caſe *of* William Prinn *Eſq; when he loſt his Ears the ſecond time; and in the* Caſe *of the Biſhop of* Lincoln, *when he was twice ſentenced in that* Court, *and impriſoned in the* Tower; *and in divers other* Remarkable Caſes.

Likewiſe

Likewiſe the Reader *will find a particular and large Account of the* Tranſactions *of* Affairs *in* Scotland, *when in the Year* 1637, *the firſt Spark of Diſcontent there brake out; and when Marqueſs* Hamilton, *the* King's High Commiſſioner, *the next Year* (1638) *was ſent down to compoſe the* Differences *and* Commotions *in that* Kingdom, *but without effect. And the next Year after* (1639) *when the* King *marched with an Army againſt the* Scots, *and encamped near* Berwick, *where the Author then was when a* Pacification *was concluded; as likewiſe at the Fight at* Newborne; *the* Great Council *at* York, *and* Treaty *at* Rippon, Anno 1640. *At all which Places the Author was preſent, and it's hoped the* Reader *will find much ſatisfaction in a* punctual Account *of the* Tranſaction of Affairs *in thoſe Places.*

And as for a clear Account of the Proceedings *in* Scotland *during the ſaid Years, the* Author *is the better enabled to give the ſame, by the help of that exact Hiſtory of the* Lives of the two Duke *Hamiltons, written by that* Learned Divine *Dr.* Gilbert Burnet; *whoſe Example, in ſetting down* Vouchers *for what he doth write, is a worthy and good Example for any* Hiſtorian *to follow.*

And another help to the Author *was, the* Records *of* Scotland, *whilſt they remained here, which after the taking of* Sterling-*Caſtle, were brought from thence to be kept in the* Tower *of* London.

The Author *alſo endeavoured to get what other* Informations *he could, by* Proclamations, Declarations, *and* Proteſtations, pro *and* con, *concerning thoſe* Commotions *in* Scotland; *all which Matters, and alſo other things, throughout the whole* Collections, *the* Author *ſets down for moſt part at large, becauſe he would not confine the* Reader *to his* Abſtract, *nor limit him to minutes of* material Evidences of Truth, *except it be in ſome leſs conſiderable Matters, and hopes the* Reader *will pardon him for ſo doing.*

Another thing ſomewhat conſiderable, which the Author *doth mention,* (*with which ſome* Readers, *martially inclin'd, will not be diſpleaſed*) *is an account of* Actions of War, *and* Military Proceedings *in* Germany, *wherein the Subjects of* Great Britain *were concerned, upon the ſending over of ſix thouſand Men, under the Conduct of Marqueſs* Hamilton, *in the Year* 1631, *to aſſiſt the* King *of* Sweden, *in order to the Recovery of the* Palatinate, *&c. And alſo of the* Proceedings *of the* Ambaſſadors *ſent upon* Treaties *with the* Emperor, *and afterwards with the* King *of* Sweden, *about the Reſtitution of the* Prince Elector

Palatine *to his Patrimony. Giving likewiſe a brief Account of ſome* Battels, *and other notable* Encounters *and* Engagements, *wherein the* Engliſh *and* Scotiſh *Subjects of the* King *of* Great Britain *were concerned; with a* Liſt *of the* Commanders Names *who went with thoſe* 6000 *Men in that Expedition.*

The Author *hath adventured to go further in theſe* Collections *in point of Time, than he intended when he came firſt to the Preſs; purpoſing then only to proceed during twelve Years and odd months Interval of* Parliament, *(except the* Parliament *that met the* 13*th of* April 1640, *which continued ſitting three weeks, of which the* Author *gives a large Account) and to end the third of* November 1640, *when another* Parliament *met; but finding the Paſſages at the* Great Council *at* York, *and* Treaty *at* Rippon, *did come ſo near the time of the meeting of that* Parliament, *as that the* King *and that* Great Council *arrived at* London *but two or three days before the* Parliament *met: And foraſmuch as the* King *in his Speech immediately after, on* Novemb. 3. *did take notice of the* Proceedings *of the ſaid* Great Council *and* Treaty, *the* Author *hath thought fit to give an Account of ſome* Remarkable Paſſages *during the firſt ſix months of that Parliament, and of the* Speeches *of ſome eminent Members thereof, who ſpake their apprehenſion of the then State of the three Kingdoms: And the* Reader *I hope will be the better informed, becauſe the* Speeches *are (for the moſt part) of thoſe* Members *who were with the* King *at* Oxford, *and adhered to His Cauſe during the time of the late* Unhappy War.

Laſtly, The Author, *in regard he was enforced to a more than ordinary haſte, in ſending forth this his* Second Part of Collections, *deſires to be excuſed, if any thing be miſplaced out of Order of Time, or any other defect in marſhaling of his Materials. And for the Errors of the Preſs, he intreats a favourable Cenſure, becauſe the Printers alſo laboured under the ſame diſadvantage with himſelf upon the account of Expedition.*

The Author *had many other conſiderable Matters to impart during the ſaid firſt ſix months, but a great part thereof is uſefully and pertinently inſerted in the* Trial *of* Thomas *Earl of* Strafford, *and will be ſhortly publiſhed by the* Author *of theſe* Collections; *which being done, if he be encouraged to proceed with his* Third Part, *he intends the ſame ſhall commence where his* Second Part *endeth, rendring an Account, from that time, of Paſſages* Civil *and* Military, *until the month of* April, 1653, *when that* Parliament, *which in proceſs of time contracted the Name of the* Long Parliament, *was broken up.*

REMAINS,

5 *Caroli.*

REMAINS OF Hiſtorical Collections.

For the Year, 1629.

IN the Preface to this ſecond Part, the Author acquaints the Reader how it happened that theſe following Additions, which come under the Title of *Remains*, were omitted in the firſt Part of *Hiſtorical Collections*, and not then inſerted in the Year 1629, as was intended.

Among the things (ſo omitted) no mention was made of an Expreſſion in the Diary of Dr. *William Laud*, then Biſhop of *London*, of which the ſubſequent Parliament took ſpecial notice, (*viz.*) *That that Parliament which was Diſſolved (the King being preſent) upon the* 10th *of* March, 4. *Car.* 1. *had laboured his Ruin.* And probably the reaſon for that *Memento* might be, becauſe the Houſe of Commons in their *Remonſtrance* in that Parliament had reflected upon that Biſhop. Unto which *Remonſtrance* an Anſwer was given in the King's Name, (but omitted alſo in the Firſt Part) penned by the ſaid Biſhop of *London*, being of his own hand-writing, produced afterwards at his Trial, and was to this effect.

The King's Anſwer to the Commons Remonſtrance.

'WE are not bound (ſaith his Majeſty) to give an account of our 'Actions to any but to God only; yet out of the Honour and In- 'tegrity of our Grace, the Love and Care of our People, the great 'and hearty deſire we have to take off all Fears and Jealouſies from 'our Loyal and Loving Subjects, We have thought fit to declare theſe 'Reaſons following, why we have called in this Remonſtrance, which 'yet we preſume and conſtantly believe was framed and delivered up 'unto us with good Intentions, tho by a miſguided Zeal.

'For firſt, That Remonſtrance begins at Religion, and fears inno- 'vation of it by Popery: But we would have our Subjects of all ſorts 'to call to mind what Difficulties and Dangers we endured, not many 'years ſince for Religion's ſake; that we are the ſame ſtill, and our 'Holy Religion is as precious to us as it is, or can be to any of them, 'and we will no more admit Innovation therein, than they that think 'they have done well in fearing it ſo much.

'Tis true, that all Effects expected have not followed upon the Pe- 'tition delivered at *Oxford*, but we are in leaſt fault; for that Supply 'being not afforded us, diſenabled us to execute all that was deſired, 'and cauſed the ſtay of thoſe legal Proceedings which have helped to 'ſwell up this *Remonſtrance*; yet let all the Counties of *England* be 'examined, and *London* and the Suburbs with them, neither is there 'ſuch a noted increaſe of Papiſts, nor ſuch cauſe of fear as is made;

An. 1629. ‘nor hath any amounted to ſuch an odious tolerating as is charged ‘upon it, nor near any ſuch.

‘For that Commiſſion ſo much complain'd of, both the Matter and ‘Intent of it are utterly miſtaken; for it doth not diſpenſe with any ‘Penalty, or any courſe to be taken with any Papiſts, for the exerciſe ‘of their Religion; no, nor with the pecuniary Mulct, or not-Con-‘formity to ours. It was adviſed, for the increaſe of our Profit, and ‘the returning of that into our Purſe: which abuſe, or connivance of ‘Inferior Miniſters, might, perhaps, divert another way: if that, or ‘any other ſhall be abuſed in the Execution, we will be ready to pu-‘niſh upon any juſt Complaint.

‘The next Fear is, the daily growth and ſpreading of the *Arminian* ‘*Faction*, call'd, a cunning way to bring in *Popery*; but we hold this ‘Charge as great a wrong to our Self and our Government, as the ‘former; for our People muſt not be taught by a *Parliament Remon-‘ſtrance*, or any other way, That we are ſo ignorant of Truth, or ſo ‘careleſs of the profeſſion of it, that any Opinion, or Faction, or ‘whatſoever it be call'd, ſhould thruſt it ſelf ſo far, and ſo faſt into ‘our Kingdoms, without our knowledg of it. This is a mere Dream ‘of them that make, and would make our Loyal and Loving People ‘think we ſleep the while.

Dr. *Laud* Bp of *London*, and Dr. *Neale* Bp of *Winchester*.

‘In this Charge there is great wrong done to two Eminent Prelates ‘that attend our Perſon: for they are accus'd without producing any ‘the leaſt ſhew, or ſhadow of proof againſt them; and ſhould they, ‘or any other, attempt Innovation of Religion, either by that open, ‘or any cunning way, we ſhould quickly take other order with them, ‘and not ſtay for your *Remonſtrance*.

‘To help on this, our People are made believe, there is a Reſtraint ‘of Books Orthodoxal: but we are ſure, ſince the laſt Parliament be-‘gan, ſome, whom the *Remonſtrance* calls Orthodox, have aſſumed ‘to themſelves an unſufferable liberty in Printing. Our Proclamation ‘commanded a Reſtraint on *both ſides*, till the Paſſions of Men might ‘ſubſide and calm: And had this bin obey'd, as it ought, we had not now ‘bin toſſed in this Tempeſt; and for any diſtreſſing or diſcountenan-‘cing of Good Preachers, we know there is none, if they be (as ‘they are called) Good, but our good People ſhall never want that ‘Spiritual Comfort which is due unto them. And, for the Preferr-‘ments which we beſtow, we have ever made it our great care to ‘give them, as Rewards of Deſert and Pains: But as the Preferments ‘are ours, ſo will we be Judg of the Deſert our Self, and not to be ‘taught by a *Remonſtrance*.

Ireland.

‘For *Ireland*, We think, in caſe of Religion, it is not worſe than ‘Queen *Elizabeth* left it; and for other Affairs, it is as good as we ‘found it, nay, perhaps better: And we take it for a great diſpa-‘ragement of our Government, that it ſhould be voiced, That New ‘Monaſteries, Nunneries, and other Superſtitious Houſes are erected ‘and repleniſhed in *Dublin*, and other great Towns of that our King-‘dom: for we aſſure our Self, our Deputy, and Council there, will ‘not ſuffer God and our Government ſo to be diſhonoured, but we ‘ſhould have had ſome account of it from them; and we may not ‘endure to have our good People thus miſled with Shews.

‘There is likewiſe ſomewhat conſiderable in the Time when theſe

‘Practices

'practices to undermine true Religion in our Kingdom are ſet on Foot. 'The Remonſtrance tells us it is now, when Religion is oppos'd by 'open Force in all other Parts: but We muſt tell Our People, there 'are no undermining practices at Home againſt it, if They practiſe not 'againſt it that ſeem moſt to labo r for it. For while Religion ſeems 'to be contended for in ſuch a Factious way (which cannot be God's 'way) the heat of that doth often melt away that, which it labours 'earneſtly (but perhaps not wiſely) to preſerve. And, for God's 'Judgments which We and our People have felt, and have cauſe to 'fear, We ſhall prevent them beſt by a true and religious Remon- 'ſtrance of the amendment of our Lives, *&c.*

Upon the Diſſolution of the laſt Parliament, the People were highly diſcontented, and uttered unpleaſing Speeches and Diſcourſes; That if a Parliament was not preſently called again, all things would be unſetled and out of Order, and Trading would fail, and Conteſts would ariſe about Tunnage and Poundage, *&c.*

Whereupon his Majeſty put forth a Proclamation, on the 27*th* of *March*, for ſuppreſſing of falſe Rumors touching Parliaments, to this Effect.

Againſt falſe Rumors of Parliament.

'That notwithſtanding his Majeſties late Declaration for ſatisfying of 'the Minds and Affections of his loving Subjects, ſome ill diſpoſed 'Perſons do ſpread falſe and pernicious Rumors abroad, as if the ſcan- 'dalous and ſeditious Propoſition in the Houſe of Commons, tumultu- 'ouſly taken up by ſome few, after that by his Majeſties Royal Au- 'thority he had commanded their Adjournment, had been the Vote of 'the whole Houſe, whereas the contrary is the Truth: which Propo- 'ſition was a thing of a moſt wicked and dangerous Conſequence to 'the good eſtate of this Kingdom, and it appeareth to be ſo by thoſe 'impreſſions which this falſe Rumor hath made in Mens Minds, where- 'by, out of cauſeleſs Fears, the Trade of the Kingdom is diſturbed, 'and Merchants diſcouraged to continue their wonted Traffique. 'His Majeſty hath thought it expedient, not only to manifeſt the Truth 'thereof, but to make known his Royal Pleaſure; that thoſe who 'raiſe, or nouriſh falſe Reports, ſhall be ſeverely puniſhed; and ſuch 'as chearfully go on with their Trades, have all good encouragement; 'not purpoſing to overcharge his Subjects by any new Burthens; 'but to ſatisfy himſelf with thoſe Duties that were received by the 'King his Father of Bleſſed Memory, which His now Majeſty neither 'can, nor will diſpenſe withal. And *Whereas*, for ſeveral ill ends, the 'calling again of a Parliament is divulged, howſoever his Majeſty hath 'ſhewed by his frequent meeting with his People, his Love to the uſe 'of Parliaments; Yet the late abuſe having, for the preſent, driven 'his Majeſty unwillingly out of that Courſe: He ſhall account it pre- 'ſumption for any to preſcribe any time to his Majeſty for Parliaments; 'the Calling, Continuing, and Diſſolving of which is always in the 'Kings own Power. And his Majeſty ſhall be more inclineable to meet 'in Parliament again, when his People ſhall ſee more clearly into his 'Intents and Actions; when ſuch as have bred this interruption ſhall 'receive their condign Puniſhment, and thoſe who are miſled by them, 'and ſuch ill Reports as are raiſed upon this occaſion, ſhall come to a 'better underſtanding of his Majeſty and Themſelves.

An. 1629.

Duke of *Rohan March*, 12. 1628. — 29.

The Duke of *Rohan*, the Head of the Proteſtant Party of the Reformed Religion in *France*, (not knowing that the King of *England* had diſſolved the Parliament) implored his further Aid, on the behalf of the *Reformed Churches* in *France*, in a Letter dated the 12*th* of *March* 1628. being two days after the Parliament was diſſolved; and was to this effect.

The Duke of *Rohan*'s Letter to the King.

SIR,

THe deplorable accident of the loſs of Rochel, *which God hath pleaſed to permit to humble us under his hand, hath redoubled, in the Spirit of our Enemies, the paſſion which they have for our Ruine; and the hopes to attain thereunto: but it hath not taken away from thoſe Churches of the Provinces that Courage, or Affection of oppoſing, by a juſt and vigorous defence, to their unjuſt Deſigns. This is that which hath made them take up a Reſolution, and aſſemble themſelves together, and to ſtand in a Body amidſt theſe Commotions, to aſſiſt me with their good Counſel, and provide, with me means for their Deliverance. And becauſe the moſt powerful Means, which God hath raiſed them upon Earth, is the Aid which our Churches have received, and do expect from your Majeſty, the general Aſſembly have deſired, That my Letter (which ſolely hitherto repreſented unto your Majeſty the Intereſt of the publick Cauſe) might be joined to the moſt humble Supplication, which they repreſent. I do it, Sir, with ſo much the more Affection, becauſe I am Witneſs, that this poor People breath after your Aſſiſtance, having once laid down their Arms, which the Oppreſſion of the Enemy made ſo neceſſary: and becauſe they knew it was your deſire, took them up again, when they learned that your Majeſty obliged them to it by your Counſel, and by your Promiſes. Upon this ſole Aſſurance, they have expoſed themſelves to all Dangers, overcome all Obſtacles, conſumed their Goods, and are ſtill ready to ſpill their Blood, even unto the laſt drop. Your good Will have found more dear than their Lives: and, notwithſtanding the Promiſes and Menaces, which their Enemies have made uſe of to move them, they have not been induced to make any Breach of thoſe Oaths, by which they were tied never to hearken to any Treaty, but with your Majeſties Conſent. All the Churches of this Kingdom, which are linked together to an unexampled fidelity, are glorious Objects of your Charity and Power. You are (Sir) Defender of that Faith, which they profeſs. Do not ſuffer it to be unjuſtly oppreſſed: You have ſtirred up their Affections by your* Royal Promiſes, *and thoſe ſacred Words, That your Majeſty would employ all the Power of your Kingdoms to ſheild thoſe Churches from the ruine that threatned them, and have been, next to the favour of God, the only Foundation of their Hopes; they have alſo thought it to be one of the higheſt Crimes they could commit, to doubt of the performance thereof. If the beginning of their Miſeries hath moved your Compaſſion, this ſad ſubject hath increaſed upon them with ſo much Violence, that there is nothing, but your Aſſiſtance can prevent their abſolute Deſtruction: for at this day the greateſt Miſdemeanors which our Enemies accuſe us of, and publiſh, that it cannot be expiated, but by our Blood, is the imploring and hoping for your Aſſiſtance. Our Goods for this are confiſcated and deſtroyed; our Farms deſolate and burned to Aſhes; our Heads expoſed to the Block; our Families baniſhed; our Temples demoliſhed. And every where, where the cruelty of our heinous Enemies can extend, Men and Women are beaten to Maſs with Staves.*

In

5 Caroli.

In ſhort, the Horror and Perſecution we endure is ſo great, that our Words are too weak to expreſs them.

Furthermore, We ſee, even at our Doors, the powerful Armies, which only wait the time to deſtroy thoſe retiring places that are left, and after that baniſh the exerciſe of Religion, and maſſacre the Faithful throughout the Kingdom. Hereupon, if I ſhould intreat your Majeſty not to Abandon us; I fear by theſe Words to offend a great King, ſo powerful, and ſo faithful: but I will take upon me the boldneſs, by reaſon of our preſſing neceſſities, to ſupplicate your ready Aſſiſtance, to hinder our falling under the ſtrength of our Enemies. Your Majeſty need not ſearch elſewhere, but in your own profound Wiſdom and Experience, to render your ſuccor redoubtable to thoſe that deſpiſe it, and advantageous to thoſe People that expect it. By this means you will gain the greateſt Glory that can be deſired; you will free from Fire and Sword 300000 Families, which pray to God continually for your Proſperity; will preſerve a People, whom God hath purchaſed by his Blood, and that have kept their Faith towards God and Man amidſt the greateſt Diſtractions and cruel Sufferings; will place the Fidelity of your Word, the Reputation of your State, and your Armies in a point worthy of ſo much Grandeur, and in checking the boldneſs of thoſe, who undertake to blaſt it daily with unworthy Reproaches, will add to your Title that of the Reſtorer of the moſt innocent People in the World, and the moſt inhumanely perſecuted.

As to my own Concerns, Sir, I make no mention to your Majeſty of my Intereſt. I might (having the Honour to be what I am) do it without blame, as to outward appearance: but it is ſo long ſince I had conſecrated them to the uſe of the Publick; that I ſhall always eſteem my condition happy enough, provided the Church be not miſerable; and that I may have this advantage, to be known by ſuch occaſions which your Majeſty doth not diſprove of, that I am,

At Rohan *the* 12*th of* March, 1629.

Your Majeſties Moſt Humble, and moſt Obedient Servant.

HENRY *of* ROHAN.

An Addreſs from the Deputies of the Reformed Churches.

Deputies came alſo from the *Reformed Churches*, and gave the King to underſtand, that they were informed a Treaty of Peace was intended to be propounded, between the two Crowns of *England* and *France*, by ſome Miniſters of Forreign Princes. That in caſe the Treaty do ſucceed, they humbly pray his Majeſty of *Great Britain*, to inſiſt upon the Capitulation made upon his Mediation, and for which he paſſed his Word, that the Reformed Churches ſhould perform on their parts, which they kept inviolably, till there were Forces placed, and kept in Forts againſt them, contrary to the Capitulation; and ſo, in their own Defence, were neceſſitated to take up Arms.

To the Duke of *Rohan*'s Letter, His Majeſty returned an Anſwer, which was to this effect.

The Effect of the King's Anſwer to the D. of *Rohan*.

'That his Majeſty underſtands there is an Intention, by the Mediation 'of ſome Forreign Princes, to propoſe a Peace between the two 'Crowns of *England* and *France*, which probably he may incline unto; 'and

An. 1629. 'and therefore adviſeth the ſaid *Duke*, and thoſe of the *Reformed Re-* 'ligion, timely to apply themſelves to the *French King*, and to get as 'advantageous Terms for himſelf, and thoſe engaged with him, as he 'could procure: The King further informing the Duke, that he was 'conſtrained to diſſolve the Parliament, which he had lately reaſſem- 'bled, from whom he expected further Supplies of Mony; but failing 'thereof, he was not in a condition to contribute ſuch further Aid and 'Aſſiſtance, either by Mony or Arms, as the Duke of *Rohan*, and 'thoſe that adhered unto him, might expect, and their preſent Neceſſi- 'ties require; His Majeſty expreſſing his ſorrow, that the Condition 'of his Affairs was ſuch, that he could not anſwer his and their Ex- 'pectation.

The Duke of *Rohan* ſeeks to the French King for a Peace.

The Duke of *Rohan*, upon the aforementiond advice of the King of *England*, forthwith made Addreſs to the *French* King, in order to a Peace, on behalf of himſelf, *De Soubieze*, and others of the Reformed Religion engaged with them: To which Addreſs, after ſome indiſpoſition thereunto in the *French King*, He at laſt agreed upon Articles, and Hoſtages were given, and a Peace concluded accordingly, and performed on both ſides; and an Act of Parliament paſſed in *France* to confirm the Articles of Peace ſo agreed upon.

March 24. $16\frac{2}{3}\frac{8}{9}$.

AT this time there was delivered to the Lords of the Privy Council, an Humble Petition of *John Talbott*, *Edward Porter*, *Henry Tellier*, and *John Shepheard*, the four Engliſh Captains employed by his Majeſty in the defence of *Rochel*, during the whole time of the Siege.

A Petition of the diſtreſſed *Rochel* Captains.

They humbly offer unto your Lordſhips Conſideration, the great Miſeries and Pains they endured during the Siege in *Rochel*, being above 14 months feeding long on Hides and Parchments, and ſtinted in that.

That during that time the Petitioners, had every one of them deducted 3 *s.* 6 *d.* the week out of their Pay, by the Pay-Maſter, which he pretended to be for Billet Money; whereas the Petitioners, and their Officers did, when Victuals was to be had for Mony, buy ſuch Victuals as they had, at a very dear rate, from the *Rochellers*, putting his Majeſty to no Charge at all for the ſame.

That your Petitioners were at extraordinary charge, above 200 *l.* a Man to maintain themſelves and their Companies in that miſerable Service, for Cloaths and other Neceſſaries, for which they grew indebted, and ſtill owe unto the Engliſh Merchants trading there.

They therefore pray their Lordſhips to take the Premiſes into conſideration.

To this Petition, their Lordſhips returned Anſwer;

That they do take notice of the Petitioners great Sufferings, and as occaſion may be offered, for his Majeſty's Service, they will be mindful of them.

The Biſhop of *London*, after the Diſſolution of the ſaid Parliament, thought it his Duty to preſent to his Majeſty certain Conſiderations in reference to the Church, Entituled;

5 Caroli.

Conſiderations for the better ſettling of the Church-Government.

The Biſhop of *London* preſents a Paper to the King concerning the Church-Government.

THat his Majeſty would be graciouſly pleaſed;

(1.) To command the Lords, the Biſhops, to their ſeveral Sees, excepting thoſe which are in attendance at Court.

(2.) That none of them reſide upon his Land, or Leaſe that he hath purchaſed, or on his *Commendam*, if he hold any, but in one of his Epiſcopal Houſes; and that he waſte not the Woods where any are left.

(3.) That they give charge in their Triennial Viſitations, and at other times, both by themſelves, and the Arch-Deacon, that the Declaration, for ſetling the Queſtions in difference be ſtrictly obſerved.

(4.) That a ſpecial charge be given them againſt frequent and unworthy Ordinations.

(5.) That a ſpecial care be had over the Lecturers in every Dioceſs, which by reaſon of their Pay are the People's Creatures, and blow the Bellows of their Sedition.

For the abating of whoſe Power, theſe ways may be taken.

1. That the Afternoon Sermons in all Pariſhes may be turned into Catechiſing, by Queſtions and Anſwers, according to an Order ſet out by King *James*, of bleſſed Memory.

If this cannot be, then,

2. That every Biſhop ordain in his Dioceſs, That every Lecturer do read Divine Service in his Surplice before the Lecture.

3. That where a Lecture is ſet up in a Market-Town, it be read by a Combination of Grave and Orthodox Divines near adjoining.

4. That if an Incorporation do maintain a Lecturer, that he be not ſuffered to Preach, till he take upon him Cure of Souls within that Incorporation.

5. That the Biſhop do countenance and encourage the grave Orthodox Divines of his Clergy, and gain them in the ſeveral quarters of his Dioceſs, to be preſent at ſuch Lecturers Sermons, as are near them; that ſo the Biſhop may have knowledg.

6. That the Biſhop ſuffer none under Noble-Men, and Men qualified by Law, to have any private Chaplain in his Houſe.

7. That his Majeſty may be graciouſly pleaſed, that Men of Courage, Gravity, and Experience in Government, be preferred to Biſhopricks.

8. That *Emanuel* and *Sydney* Colleges in *Cambridg*, which are the Nurſeries of Puritaniſm, may from time to time be provided of Grave and Orthodox Men for their Governors.

9. That his Majeſty's high Commiſſion be countenanced by the preſence of ſome of his Majeſty's Privy Council, ſo oft at leaſt as any matter of moment is to be ſentenced.

10. That ſome courſe may be taken that the Judges may not ſend ſo many Prohibitions.

11. That

An. 1629.

11. That his Majeſty would be graciouſly pleaſed, once in half a year, to call for an account of all, or ſo many of theſe as he in His Wiſdom ſhall think fit.

A conſideration alſo to be had,

1. As to the general Feoffees for Benefices and Preferments.
2. A new authoriſing of the Injunctions.

His Majeſties Declaration as to Religion, Liberty and Property.

Alſo after the Diſſolution of the ſaid Parliament, his Majeſty moſt graciouſly declares himſelf as to Religion, and the Right and Property of the Subject; 'That it is, and always hath bin Our hearts deſire, to 'be found worthy of that Title, which We account the moſt glorious 'in all our Crown, *Defender of the Faith.* Neither ſhal We ever give way 'to the authorizing of any thing, whereby any *Innovation* may ſteal or 'creep into the Church, but to preſerve that Unity of Doctrine and 'Diſcipline eſtabliſhed in the time of Queen *Elizabeth*, whereby the 'Church of *England* hath ſtood and flouriſhed ever ſince; And that 'We have by Our Proclamation and Commandment, ordered the 'Laws to be put in Execution againſt Prieſts and Popiſh Recuſants, to 'fortify all ways and approaches againſt that Forreign Enemy.

'And as We have bin careful (ſaith his Majeſty) for the ſetling of Re-'ligion, and quieting the Church, ſo were We not unmindful of the pre-'ſervation of the juſt & ancient Liberties of our Subjects, which we ſecu-'red to them by Our gracious Anſwer to the Petition in Parliament, ha-'ving not ſince that time done any Act whereby to infringe them; but 'Our care is, and hereafter ſhall be, to keep them entire and inviolable, 'as We would do our own Right and Soveraignty, having for that pur-'poſe enrolled the Petition and Anſwer in our Courts of Juſtice.

As his Majeſty thus declared himſelf concerning Religion, and the Subjects Right and Property, ſo the Lords of the Privy Council did proceed in ſetling the Militia of the Kingdom, and of Tunnage and Poundage, to preſerve the Narrow Seas. Alſo to put the Laws in execution againſt Popiſh Recuſants; to which purpoſe theſe particular Orders and Directions were given.

Cuſtoms of Tunnage and Poundage required to be paid.

1. As concerning Tunnage and Poundage, (the great Conteſt in the laſt Seſſions of Parliament) the Privy Council thus proceeded: They directed Warrants to the Officers of the Cuſtoms in the Port of *London*, to ſeize and detain the Goods of any that ſhall attempt to Land without Warrant, till the Cuſtoms be paid.

2. And they farther ordered; That ſuch Merchants Goods as remained on Ship-board, be removed into Store-Houſes at the *Cuſtom-Key*, and, for want of Room, into the *Tower*, to remain there, till his Majeſties Duties, and the Freight due to Ship-Maſters, were ſatisfied.

3. And whereas Attempts were made by *Replevin*, directed to the Sheriff of *London*, to obtain thoſe Goods out of the King's Store-Houſes, the Meſſengers of the Council were appointed to detain them in their keeping; and to apprehend, and keep in ſafe cuſtody, all Perſons that ſhould make reſiſtance in this Caſe.

4. Alſo Letters of Command were ſent unto the Officers and Chief Magiſtrates of moſt Ports of the Kingdom, to aſſiſt the Officers of the

the Cuſtoms, in caſe of oppoſition, that might be made by Refractory Perſons.

5. In like manner Sir *Francis Cottington* was authorized to call before him thoſe Merchants that had bin truſted by the Collectors for Sums grown due by Cuſtoms, and protracted the payment thereof; and to require them, without delay, to pay in the ſeveral Sums which they owe to his Majeſty; and upon refuſal, to injoin them to attend the Lords of the Council.

Rich. Chambers his goods ſeized for non-paiment of Cuſtoms; and his Fine of 2000 *l.* in the *Star-Chamber* not to be extended upon the Goods.

6. *Richard Chambers*, whoſe Goods were detained in the Commiſſioners hands, for non-payment of Cuſtoms, being fined to his Majeſty in the Sum of 2000 *l.* in the Court of *Star-Chamber*; and the Fine eſtreated in the *Exchequer*, and from thence Proceſs of Extent iſſued out to levy the ſame. It was afterwards ordered by the Court of *Exchequer*, that the Goods ſhould be delivered to the ſaid *Chambers*, upon payment of ſo much Mony into the Court, as the Duties demanded for the King did amount unto; or levying of ſo much Goods as ſhould amount to double the value of thoſe Monies. The Privy-Council required the Commiſſioners not to deliver the Goods, until the Fine was firſt levied; the Order of the Exchequer no ways intending, or being intended to prevent the ſame, and then to obſerve the Order of Court.

Merchants deſign to ſend their goods beyond Seas, to avoid paying of Cuſtoms.

7. About the ſame time a Ship returning from the *Streights*, laden with ſtore of fine Wares, belonging to the London-Merchants, and conſign'd for *London*, was appointed by the Merchants to come to an Anchor in *Dover*-Road: Whereupon the Council being inform'd that the Merchants intended to defraud the King of his Cuſtoms, by unlading their Goods into Catches, and other ſmall Veſſels, and Landing at unlawful Hours, in obſcure places, commanded the Officers of *Dover* to take a particular account of the Goods, and to put them into Store-houſes; unleſs ſecurity was given to ſend them to the Cuſtom-Houſe Key at *London*. But a farther ground of the Warrant was this; becauſe the Merchants were purpoſed to ſend their Goods into *Holland* in Catches, and not to land them at all; which purpoſe was held by divers Merchants; and afterwards an Order was made againſt this ſecret Conveying of Wares and Merchandizes beyond Sea in Catches, and other ſmall Veſſels, to defraud the King of his Cuſtoms.

Orders to ſearch in Ware-houſes, &c. in caſe a default be made to pay Cuſtoms.

8. There was alſo a ſtrict Order made, enabling the Meſſengers of the Council-Table, to enter into any Ship, or Veſſel, Houſe, Ware-Houſe, or Cellar; and to ſearch in any Trunk or Cheſt, and to break any Bulk whatſoever, in default of the payment of Cuſtoms; and to apprehend all Perſons that ſhall give out any ſcandalous Speeches againſt his Majeſties ſervice, or cauſe any diſturbance.

Militia of the Kingdom for Public defence and ſafety.

For the Publick Defence and Safety, by the ſetled *Militia* of the Nation, (the Trained Bands) this courſe was taken. The Privy-Council, in their Letters of Inſtruction to the Lords Lievtenants of Counties, expreſſing the King's Diſpleaſure, at the great neglect of Muſters in moſt parts of the Kingdom, required them to take care that the Trained Forces, both Horſe and Foot, be compleat, according to the Modern Faſhion, and be perfectly inſtructed in the Exerciſe of Arms: And that the Captains and Officers be able to perform their ſeveral Charges; and that both Officers and Souldiers be not

An. 1629. only able and ſufficient Men, but well-affected in Religion; that they take the Oaths of Allegiance and Supremacy; and that if a Soldier enrol'd remove his dwelling out of the Town or Pariſh of his abode, notice be given thereof to the Deputy-Lieutenants of that Diviſion; to the end that in caſe he have Licence to depart, his Company may be made up again. And in caſe any Mannor, Manſion-Houſes, or Lands, which formerly found, or contributed toward the finding of Horſe, or Foot, do not furniſh the Muſters, as formerly, by reaſon of the dividing of ſuch Eſtate among Co-heirs, or coming into the hands of any Joynters, or Tenant in Dower, or the purchaſe of new Owners, that the ſame be ſupplied by the Owners, or Occupiers thereof, that no ſuch alteration may diminiſh the Bands, which ſhould rather be increaſed, eſpecially the Horſe. That the beſt ſort of Men provide themſelves Arms for their particular uſe; that the Beacons be repaired, and continued in good Order; that a proportion of Powder, Match and Bullets be kept in the Magazines. And in regard of the great deficiency in the Horſe-Bands; and Neglect in thoſe that ſhould ſhew their Horſes, it was required that good Bond be taken for his Majeſties uſe, of thoſe that ſhew not, or whoſe Horſes, Arms and Furniture are deficient, that they ſhall perſonally appear with their Horſes and Arms, to ſhew them on the firſt of *October* next.

Lord Mayor of *London*'s Order for Militia.

The Lord Mayor of *London* received the like command concerning the Trained Forces within the City, and concerning the Arms and Furniture, the Commanders and Officers, and a convenient Magazine.

Captains of Train'd Bands.

Moreover, the Council taking into Conſideration the Unwillingneſs, Excuſes and Refuſals of ſome Gentlemen to undertake and perform the diſcharge of Captains of Trained Bands, which are the ordinary Forces and Strength of the Kingdom: Declared and Ordered, That the Lord-Leiutenants, in the Counties of their Leiutenancy, ſhall appoint for Captains, upon the vacancy of the Charge, ſuch Gentlemen as they ſhall find moſt fit and capable: and they ſhall return to the Board the Names of all ſuch as ſhall refuſe to undertake, or execute the ſame, that they may be proceeded with in ſuch manner, as their Contempt in a Caſe of this Nature and Importance ſhall deſerve.

Muſter-maſter.

And for the exerciſing and keeping of the Train'd Bands in good Equipage and Order, each County was *Aſſeſſed* at a certain Rate, for the entertainment of a *Muſter-Maſter*, who was appointed for that Service: this Money was to be granted by the Grand Jury, and collected by the High Conſtables of every Hundred; the Perſons refuſing this payment, are to be returned to the Council-Table.

But divers refuſing to ſubmit to theſe Taxes, the Lieutenants and Deputy-Lieutenants were commanded to ſign the Aſſeſsment with their own hands; that if any ſhould deny hereafter to pay, they ſhould make them enter into Bond to anſwer this their Contempt at the Council-Table.

Alſo

5 Caroli.

Alſo after the Diſſolution of the Parliament, a new occaſion is offered to his Majeſty of expreſſing his ſenſe of, and his zeal againſt Popiſh Recuſants.

'AS We were careful to make up all Breaches and Rents in Religion at home, ſo did We by Our Proclamation and Command-ment for the execution of the Laws againſt Prieſts and Popiſh Recuſants, fortify all ways and approaches againſt that Forreign Enemy; which if it hath not ſucceeded according to our Intention, We muſt lay the fault where it is, in the ſubordinate Officers and Miniſters in the Country, by whoſe Remiſneſs Jeſuits and Prieſts eſcape without Apprehenſion, and Recuſants from thoſe Convictions and Penalties which the Law and Our Commandment would have inflicted on them.

Popiſh Recuſants to be proſecuted.

And his Majeſty in Council made a ſtrict Order to ſeize upon all *Engliſh* going to Embaſſadors Houſes to hear Maſs, requiring the Lord Mayor and Sheriffs, Juſtices of Peace, and others, to aſſiſt the King's Meſſengers, in the apprehending of any of the King's Subjects going to Maſs, requiring the Laws to be put in execution againſt them. And, to ſhew the clearneſs of his Intention, doth declare that he hath begun already at his own Houſe, not permitting any to go to the Queen's Chappel, but thoſe of the Queen's own Houſe who do attend her, and requires the Privy-Council to acquaint Forreign Embaſſadors with this his Intention.

Recuſants going to Embaſſadors Houſes prohibited.

About this time alſo the Lords of the Council Ordered the Attorney General to take care, that the Statute *3 Jacobi* be put in execution againſt Recuſants dwelling within 10 Miles of *London*; and that the Statute of Confinement be executed againſt all ſuch of them as are Lodgers about the City: and that he cauſe a Bill of Indictment to be Exhibited at the next Seſſions, againſt the Keeper of New-Priſon, for ſuffering Prieſts committed to his Cuſtody to walk abroad at their Pleaſure.

The Statute 3 *Jac.* to be put in Execution.

About the ſame time a Letter was ſent from the Council to the High Sheriff, and Juſtices of Peace in *Northumberland*, expreſſing how his Majeſty was credibly informed that the number of Popiſh Recuſants in that County, which of late years was very ſmall, is now through too much remiſneſs in the execution of the Laws againſt them, increaſed to ſuch an exceſſive number, as hath given his Majeſty juſt cauſe to be highly diſpleaſed therewith, and may juſtly give exceeding great offence to all his well-affected Subjects. Wherefore they thought fit (as they Declare) for the timely preventing the farther growth of ſuch an unſufferable Evil, whereby Almighty God is diſhonoured, his Majeſties moſt gracious and Religious Government may be traduced, and the Peace and Safety of the Kingdom endangered, to ſignify unto them his Majeſties expreſs Pleaſure, that they make exact inquiry into the number of Popiſh Recuſants Convicted, or Unconvicted, which may be juſtly ſuſpected, and return a Certificate. Alſo that they take care that the Laws againſt them be put in execution without Partiality or Connivance; and that they give unto the Board a faithful account of their Proceedings herein, as they tender the good of Religion,

Recuſants in *Northumberland* not proſecuted according to Law.

An. 1629. the happy Government of the Common-wealth, and as they would avoid his Majeſties great Diſpleaſure.

Prieſts and Jeſuits to be ſent to *Wisbich*.

And for putting the Laws and Statutes in Execution made againſt Jeſuits, Prieſts, Popiſh Recuſants and others who had taken Orders by Authority derived or pretended to be derived from the See of *Rome*, a Proclamation iſſued forth that they be proceeded againſt and brought to Trial. It was therein farther Declared, that if upon Trial they ſhall be Convicted, and if there be cauſe to reſpite the Execution of any of them, it was reſolved not to let them lie in common Goals, but, according to the example of former times, to ſend them to the Caſtle of *Wisbich*, or ſome other ſafe Priſon, there to remain in ſtrait and cloſe Cuſtody.

In purſuance of which Proclamation the Lords of the Council wrote their Letter to the Biſhop of *Ely*, thereby ſignifying the King's Pleaſure and Command, that he do forthwith prepare and make ready the Caſtle of *Wisbich* in the Iſle of *Ely*, to lodg all Prieſts, Jeſuits, *&c.* which ſhall be ſent thither. Giving him notice alſo at that time that one *Southwood* a Romiſh Prieſt, is to be removed to that place.

Prieſts and Jeſuits in *Scotland*.

In *Scotland* alſo, the Prieſts and Jeſuits were very active in promoting their Religion; the People in many places coming publickly to Maſs, being chiefly countenanced thereunto by Marqueſs *Huntley*, Earl of *Nidsdale*, *Athol*, *Abercorn*, and ſome others of the Nobility of *Scotland* of the Roman-Catholic Religion. But this gave ſuch great diſtaſte to the Council of *Scotland*, that they proceeded by way of Proceſs againſt the ſaid Marqueſs and Earl, who flying into *England* for refuge, and not appearing according to Summons, were all of them put to the Horn; but in *England* they found no good reception, and ſo returned.

Theſe things beforementioned of publick Concern for the Kingdom being ſettled by the Lords of the Privy Council, they in the Month of *July* this Year thought it their Duty to take into Conſideration what probable ways might be taken to get Supply for his Majeſty; and the firſt thing taken into Conſideration, was to raiſe Moneys by his Majeſties granting of Patents to incorporate Companies, and to bring Revenues thereby yearly into the Exchequer, by Indentures between His Majeſty on the one part, and the Patentees on the other part. In proſecution of which Deſign it was thought fit to confirm a Grant made by King *James* to incorporate the Starch-makers into a Company, ordering them Rules for the making of Starch, and avoiding annoyances thereby. Whereupon his now Majeſty for the better regulating that Trade, appointed a *Surveyor* to overſee the ſame in every part, and that his Majeſty's *Commiſſioners*, which hereafter to that purpoſe he ſhall appoint, ſhall be ready to hear and diſpatch all Complaints touching the Premiſes; and if they ſhall find any, whoſe offence and miſdemeanor deſerves to be made more exemplary, they are to take care that ſuch Offenders ſhall undergo the cenſure and ſeverity of the Court of *Star-Chamber* for that contempt of the King's Prerogative Royal; and alſo that all Juſtices of the Peace, Mayors, Sheriffs, *&c.* ſhall cauſe all and every the Offenders, whoſe offences deſerve exemplary Puniſhment againſt any Branch, Article or part of his Majeſties Royal *Proclamation* (Dated the 30*th* of *June*) to be bound with

Corporation of Starch-makers.

Sureties

5 *Caroli.*

Sureties in good Bond to the King's Uſe, for their appearance before the King and the *Privy Council*, and in the Court of *Star-Chamber*, there to anſwer their Contempts.

Afterwards there was a Contract by Indenture, between the King of the one part, and the Maſter, Wardens, and Aſſiſtants, and Commonalty of the Society of Starch-Makers of *London* on the other part, whereby the ſaid Society doth covenant to pay into his Majeſties *Exchequer*, the ſum of 1500 *l.* for the firſt Year; and for the ſecond Year, the ſum of 2500 *l.* And after the ſaid two Years ſhall be ended, to pay *per annum* to his Majeſty 3500 *l.*

Next to this, it was propoſed to raiſe Monies by Compoſition with Recuſants, as in the following Order is expreſt.

Recuſants to compound for their Forfeitures.

'WHereas his Majeſty had formerly granted ſeveral Commiſſions 'for Leaſing Lands of Recuſants, lyable to Forfeitures; with 'Inſtructions for the direction of his Commiſſioners in that Service: 'and in expectance of a due Reformation of the manifold Neglects 'and Abuſes of his Inferior Officers and others, whereby that part of 'his Revenue had been much leſſened, and thoſe who were backward 'in their Religion, encouraged to perſiſt in their obſtinacy and 'blindneſs, his Majeſty hath now cauſed thoſe Commiſſions and In'ſtructions to be revived, and in many parts altered, for his Majeſties 'better Profit and Service.

All which was publiſhed by Proclamation, to the intent that ſuch as ſhould be willing to contract, or to farther the ſervice on that behalf, might attend the ſaid Commiſſioners.

And whereas ſome had contracted for ſuch Leaſes, who did not ſue out the ſame, his Majeſties declared Will and Pleaſure was, That ſuch Perſons who had ſo contracted, ſhould paſs their Leaſes under Seal before the end of *Michaelmaſs* Term next, or elſe their Contracts to be utterly void.

On the 24*th* of *March*, 16$\frac{28}{29}$, A ſecond Proclamation was iſſued out for the Apprehenſion of *Richard Smith*, a Popiſh Prieſt, ſtyl'd, and calling himſelf the Biſhop of *Calcedon*, to this effect.

Concerning the Biſhop of *Calcedon*, a Popiſh Prieſt.

'THat his Majeſty by his Proclamation, bearing date the 11*th* day 'of *December* laſt paſt, (for the Reaſons therein expreſſed) did 'ſtraitly command, That none of his Subjects ſhould harbor or conceal 'the ſaid *Smith*, but that forthwith they ſhould arreſt and apprehend 'his Body, and bring him before the next Juſtice of the Peace to the place 'where he ſhould be apprehended; whom his Majeſty thereby com'mands to be committed to Priſon without Bail or Mainpriſe; and 'preſently to inform his Majeſty, or his Privy Council of his Appre'henſion. And the King did thereby declare; That if any Perſon 'ſhould then after, directly or indirectly, harbor or conceal the ſaid '*Smith*, or uſe or connive at any means whereby the ſaid *Smith* might 'eſcape from being apprehended or arreſted, that his Majeſty ſhould 'extend the utmoſt ſeverity of his Laws againſt every ſuch Offender, 'as by his Proclamation more at large appears. Which Proclamation 'hath not yet wrought that good Effect which his Majeſty expected; 'the

An. 1629.

'the ſaid *Smith* being ſtill hidden and harboured by thoſe, who being 'infected and blinded with Popiſh Superſtition, prefer their Reſpects 'to him, before their Duty to their King, and the fear of his high 'diſpleaſure, and the Conſequence thereof. His Majeſty therefore, by 'the Advice of his Privy Council, hath thought fit by this his ſecond 'Proclamation, to renew his former Command in that behalf.

'And to the end that none of his Subjects may hereafter excuſe 'themſelves, by a pretended ignorance of the danger they ſhall fall 'into, if they ſhall harbour or conceal him, His Majeſty doth hereby 'publiſh and declare, That the ſaid *Smith* is not only a Popiſh Prieſt, 'and with high preſumption taketh upon him to exerciſe Eccleſiaſti-'cal Juriſdiction, pretended to be deriv'd from the See of *Rome*, within 'this Realm, and endeavoureth to ſeduce the King's Subjects from 'the True Religion eſtabliſhed in the Church of *England*, (which by 'God's Aſſiſtance, his Majeſty ſhall ever conſtantly maintain) but doth 'alſo ſeditiouſly and traiterouſly hold correſpondence with the King's 'Enemies, tending to the diſturbance of the State.

'And therefore his Majeſty doth now again renew his former Com-'mand for the Apprehenſion of the ſaid *Smith*; and doth hereby far-'ther ſignify, That whoſoever ſhall lodg, harbor, or relieve the ſaid '*Smith*, or any other Prieſt, Jeſuit, or other, having taken Orders by 'Authority pretended to be derived from the See of *Rome*, ſhall incur 'the danger of the King's Laws made againſt the Harborers, Lodgers, 'and Relievers of Prieſts, to the full extent thereof; which by the 'Statutes of this Realm is Felony.

'And the King doth further hereby declare, That whoſoever ſhall 'diſcover the ſaid *Smith*, and cauſe him to be apprehended, as afore-'ſaid, ſhall have a Reward of *one Hundred pounds* in Mony, to be pre-'ſently paid unto him by the King; and ſhall alſo have the benefit of 'ſuch Penalties and Forfeitures, which ſhall or may accrue unto his 'Majeſty, and be forfeited by that Perſon in whoſe Houſe the ſaid *Smith* 'ſhall be found to have bin harboured or concealed.

'And his Majeſty doth farther charge and command hereby (as by his 'former Proclamation His Majeſty did) all and ſingular the Judges, 'Juſtices of the Peace, Mayors, Sheriffs, Conſtables, and all other his Of-'ficers, Miniſters, and Loving Subjects; that if they ſhall find any 'Perſon offending herein, that then they, and every of them, pro-'ceed with all diligence and readineſs, not only againſt the ſaid '*Smith*, but alſo againſt all ſuch as ſhall harbor, conceal, or connive 'at his Concealment; or ſhall not uſe their beſt endeavours for his 'Diſcovery and Apprehenſion, according to the utmoſt extent of the 'Laws.

This Biſhop, as is hereafter mentioned, had bin, ſince the laſt year of King *James*, ſeverely perſecuted by the Regular Prieſts in *England*, who at laſt over-power'd the Biſhop's Faction here, and forced him to fly for ſuccor into *France*, where we was receiv'd by Cardinal *Richelieu*.

Le Maiſtre and *Rudeſindus*, write on behalf of the Biſhop.

It may not be impertinent to give ſome account of this Biſhop of *Calcedon*, and of what eſteem he had here in *England* in the exerciſing of his Function.

N. le

5 Caroli.

N. le Maiſtre a Sorbon Prieſt, writes thus of him; That after the Death of *William* Biſhop of *Calcedon* in *England*, moſt of the *Secular Prieſts*, together with the *Benedictines*, for the advancement of the *Romiſh* Catholic Religion, became Suitors to the Pope and his Conclave, to have one or more Biſhops created by the Pope to be ſent over into *England*, to ordain Prieſts, give Confirmation, and exerciſe Epiſcopal Juriſdiction there. The *Regular Prieſts*, and ſome others here, did ſtifly oppoſe this Deſign, but the Epiſcopal *Secular* and *Benedictine* Party prevailing, Pope *Urban* by his ſpecial Bull, bearing date the 4*th* of *Auguſt*, *Anno* 1625, created *Richard Smith* Biſhop of *Calcedon*, and ſent him over into *England* to exerciſe Epiſcopal Juriſdiction, and to be Superintendent over the Prieſts within the Engliſh Dominions, according to the Tenure of his Bull. But the *Regular Prieſts* writ divers printed Treatiſes againſt Epiſcopacy, and the inconveniency of having a Biſhop in *England*, whoſe Books were referred to the Examination of the Faculty of *Paris*, and there cenſured; but they raiſed up ſuch a Faction and Perſecution againſt this their New Biſhop of *Calcedon* in *England* and *Ireland* among the Popiſh Party, that they chaced him out of *England* into *France*, where he was entertained by Cardinal *Richlieu*.

And the ſaid *Le Maiſtre* writeth further, That this Biſhop was a moſt Illuſtrious Champion, *&c.* fit to be ſetled in *England*, *where the heat of Perſecution hath ceaſed, through the dignity of a magnanimous King*, and *moſt invincible Prince by the* Bourbonian *Star*, *which hangs over theſe Countries in a moſt dear Wife*; *by which Stars*, *peradventure the Tempeſt of Perſecution will in time be appeaſed*, &c.

And Father *Rudecindus*, Preſident of the *Engliſh Benedictines*, writes to the Sacred Congregation, conſecrated to the Propagation of the Faith, dated from the Covent of St. *Gregory* of the *Benedictines*, at *Doway* in *Flanders*; wherein (among other things) he doth with great dolor of mind lament the Oppoſition given to *Matthew Kellyſon* and *Richard Smith*, antient Prieſts, who, among others, were nominated to his moſt holy Lord, to undergo the Epiſcopal Charge in the Engliſh Miſſion, (for he reckons above 60 *Benedictine* Monks in *England* ſubject to his Congregation, and does prepare far more in their Covents to the Functions of Miſſion); and doth teſtify that the ſaid venerable Prieſts, Dr. *Matthew Kellyſon* and Dr. *Richard Smith*, are in great veneration in *England*; and that Dr. *Kellyſon* was chief Profeſſor of Divinity for many years in the Univerſity of *Rhemes*; and that Dr. *Richard Smith* was firſt conjoined in the Society of Studies to the moſt Learned Biſhop of *Luſſion*, now Cardinal of *Richlieu*; and concludes, We *Benedictines*, your humble Servants and Sons, do humbly pray that you will be pleaſed *to grant a Biſhop to our England*, ſeeing that no Province of the Catholic World hath more need of one, the obſervance of Eccleſiaſtical Diſcipline being not able to be preſerved without Epiſcopal Authority. *Neither is it to be doubted, for we have already ſeen the good ſucceſs under the firſt Biſhop, that another Biſhop being conſtituted, you would behold more joyful Fruits within one two years in the Engliſh Miſſion, than hitherto ye have beheld for 60 years now elapſed.* And we ſee not why the *Regulars*, with their Privileges given them by the Apoſtolic See, may not as happily agree with a

Biſhop

An. 1629. Biſhop and Secular Clergy in the Engliſh Miſſion, as well as we ſee they every where do out of *England*, &c.

The Biſhop of *London* in his Diary on the *29th* of *March*, in which Month the Parliament was Diſſolved, makes this Memorial following.

March 29. 1629. A Libel againſt the Biſhop of *London*.

On Sunday, two Papers were found in the Dean of *Pauls* Yard before his Houſe, the one was to this effect concerning my ſelf. *LAUD, Look to thy ſelf, be aſſured thy Life is ſought, as thou art the Fountain of all Wickedneſs; Repent thee of thy monſtruous Sins before thou be taken out of the World*, &c. *And aſſure thy ſelf neither God nor the World can endure ſuch a vile Councellor to live, or ſuch a Whiſperer*, or to this effect. The other was as bad againſt the Lord Treaſurer. Maſter *Dean* delivered both Papers to the King that Night.

Lord (ſaid the Biſhop) *I am a grievous Sinner, but I beſeech thee deliver my Soul from them that hate me without a cauſe.*

Iriſh Agents.

Ireland having been a long time without a Parliament, and Grievances upon the People abounding in that Kingdom, the Lord *Faulkland* then Lord Deputy condeſcended to the deſires of the Nobility and Gentry of that Kingdom, that each Province in *Ireland* ſhould chuſe fit Perſons to go into *England* to attend upon his Majeſty, and preſent what they had to offer on behalf of themſelves, and the People: to which purpoſe he gave them leave to name Commiſſioners for every Province, and particular Commiſſions were granted accordingly, and this which followeth was granted to the Province of *Munſter*. The reſt of the Commiſſions to other Provinces being to the ſame effect.

The Lord Deputies Commiſſion to the *Iriſh* Agents for *Munſter*.

'WHereas it hath pleaſed the Right Honourable the Lord Deputy, 'upon the humble ſuit of ſome of the Nobility of this Realm, 'in behalf of themſelves and other his Majeſties Subjects here; That 'ſome fit Agents ſhould be ſent over into *England* to preſent unto His 'Majeſty ſuch things as may be to the behoof of his Majeſties Service 'and good of this Kingdom; His Lordſhip hath condeſcended to the 'ſaid ſuit, and authorized by his Lordſhips Letters of the *26th* of *June* '1627, the Gentlemen and Freeholders of the ſeveral Counties of the 'Province of *Munſter*, and the ſeveral Corporations of the ſame, to 'aſſemble and agree upon ſuch Agents for the ſaid Province to make 'the ſaid Propoſitions as they ſhould think fit.

Which ſaid Letters of the Lord Deputy's were ſeconded and confirmed by other Letters of his Lordſhips to the ſame effect, dated the *26th* of *July*, the year aforeſaid.

'We the Agents of the ſeveral Counties, and Corporations of the 'ſaid Province, have accordingly met at *Fermoy* the laſt of *Auguſt* the 'Year aforeſaid, and have by common Aſſent nominated, deputed and 'appointed, like as by theſe Preſents we do nominate, depute and appoint 'our Truſty and well beloved *John* Lord Baron of *Carraghmore*, Sir '*Edward Fitz-Harris* Baronet, Sir *John Mead* Knight, and *Richard* '*Osborn* Eſquire, to be our Agents for the ſaid Province of *Munſter*;

'and

5 Caroli.

'and do appoint and authorize them or any of them, to join with the 'Agents of the reſt of the Provinces of this Kingdom, in preſenting 'of our Grievances to the King's moſt Excellent Majeſty; ratifying and 'allowing what our ſaid Agents, or any three of them, ſhall do. Wit-'neſs our hands the laſt of *Auguſt*, 1627.

Signed

Sir *William Sarsfield.*

Sir *Daniel Obrian*, &c.

The Commiſſioners arriving at Court in the Month of *September*, preſented the following Petition to his Majeſty.

The Humble Petition of your Majeſties Subjects, appointed Agents to prefer certain Humble Requeſts and Petitions to your Highneſs, in the behalf of your Kingdom of Ireland.

Humbly ſheweth,

'THat your Majeſties Suppliants did in the behalf of your 'Subjects of *Ireland* offer unto your Majeſty to remit and re-'leaſe unto your Higneſs 150000 *l.* or thereabouts already 'borrowed from them, or paid to your Majeſties Army there, 'and further to grant three Subſidies to be paid in the next three Years, 'which humble offers your Petitioners are now only authorized to 'make; as alſo do preſent certain humble Requeſts to your Highneſs, 'according to the inſtructions given them, of your Majeſties faithful 'Subjects of your Kingdom of *Ireland*: which Offers though they do 'not extend to that Greatneſs, as from your Highneſſes other more 'flouriſhing Kingdoms may be expected, yet conſidering the State and 'Poverty of the ſaid Kingdom, they are as much as the Subjects are 'poſſibly able to afford at this time.

'And leſt it might be conceived or be objected by any, that theſe 'Offers are in any ſuch kind as though your Higneſs's ſaid Subjects did 'intend to contract with your Highneſs, and that they would not af-'ter the ſaid three years expreſs their loyal and dutiful deſires to do 'your Majeſty Service, by further contributing to your Highneſs's occa-'ſions, your ſaid Petitioners do moſt humbly beſeech your Highneſs to 'call to mind with what celerity, alacrity, and true hearty affection 'and duty your ſaid Subjects, and their Anceſtors in all the times of 'your Majeſties royal Predeceſſors, have made demonſtration of them-'ſelves, by ſhedding their Blood, and extending their Means in the Ser-'vice of the Crown from time to time; and to conceive of your ſaid 'Subjects, that as they muſt acknowledg themſelves moſt bound to 'your Majeſty, ſo they will be ever willing with all their Ability, 'Means and utmoſt Power, to contribute to your Majeſties Affairs from 'time to time, not doubting that your Highneſs will in your Paternal 'Care of your loyal and faithful Subjects there, take ſuch courſes that 'they ſhall never be preſt beyond the neceſſity of Times and their 'Abilities.

An. 1629. 'And in regard the ſaid Kingdom hath lately and now doth ſuſtain 'great Burdens, as well by your Petitioners Attendance here as other-'wiſe, that your Highneſs will be graciouſly pleaſed to give a favour-'able and ſpeedy diſpatch to this Affair, that your ſaid Subjects being 'eaſed of a great Charge, might be the better able to ſatisfy your High-'neſs, according to their Deſire and true Intention.

And they will ever moſt humbly pray, &c.

The particular Grievances preſented by the ſaid Agents, were many and long, being fifty five in Number; to each of which Grievances one by one, the King did give a particular Anſwer, either giving preſent eaſe to the ſame, or putting things into a way of future remedy. The Titles to the Anſwers were thus expreſſed.

Apoſtiles, Anſwers, and Reſolutions to the humble Requeſts of his Majeſties Subjects of the Kingdom of Ireland.

Some of their complaints were againſt the courſes held in the Eccleſiaſtical Juriſdiction, touching the extortion of 13 *s.* 4 *d.* 10 *s.* and 6 *s.* 8. Sterling for every Chriſtening, Marriage, and Burial, which being taken from the poor Huſband-man, by whoſe labour the Landlords and Gentlemen ſubſiſt, enforceth him often with his Family to beg and quit his Reſidence: wherefore ſuch Exactions being without limits, taking what they pleaſe, they procure from the Lord Deputy Warrants of Aſſiſtance to attach and impriſon any ſuch Perſon. And though thoſe Warrants of unjuſt complaints of the foul abuſes ariſing from them, have been recalled, and not to be allowed but by Act of State, publiſhed in that behalf: Yet are they now lately renewed, and the Subjects thereupon reſtrained without legal Warrant; which being abuſively carried in this violent courſe, will in ſhort time draw all the Treaſure in the Kingdom from the Laity to the Church; wherein, as for other Duties exacted, and not warranted by Law, they deſire redreſs.

Alſo againſt exorbitant Fees taken for Proceedings in Courts of Juſtice at *Dublin*, greatly to the impoveriſhment of the People.

Alſo againſt employing of Soldiers to fetch in the King's Revenue, and doing other things which ought to be performed by Men in a civil Capacity.

Alſo that the Soldiers be confined to their Garriſons, and when called to march out, that Money may be given unto them to maintain them when they are abroad.

Alſo that his Majeſty would be pleaſed to take away all Monopolies, Reſtraints and Grants of that kind to private Men for ſelling of *Aquavitæ*, Wine, Ale and Beer, ſealing of Barrels; abuſe by ſhort Ploughs, Tanning of Leather, *&c.*

That no new Charge be laid or impoſed on the Subjects of that Kingdom without their own conſent, being ready to contribute to the utmoſt of their Abilities in any his Majeſties Service.

That his Majeſty may be pleaſed to call a Parliament for the preſent rating of the Subſidies to be granted to his Majeſty for the Favors and Graces aforeſaid, and for ſecuring the Subjects Eſtates, granting a general Pardon, and providing for ſuch other things as ſhall be neceſſary

ceſſary for his Majeſties Service, and the good of the Common-wealth. 5 *Caroli.*

The King in his gracious Anſwer to this laſt Requeſt, declared his Pleaſure to call a Parliament to meet in *Ireland*, which did ſo overjoy the *Iriſh* Agents, as they writ Letters thereupon into *Ireland*, intimating as if they there might preſently iſſue out Writs for a Parliament to meet: which was a great Error in them ſo to do, being contrary to the Law and former courſe of proceedings; forgetting that they muſt firſt obtain a Grant under the Great Seal of *England* to enable them to iſſue Writs for a Summons of a Parliament in that Kingdom. Which extraordinary haſte of theirs, occaſioned this enſuing Order of the Council Board in *England*.

In *Ireland* they call a Parliament irregularly.

'WHereas the Board hath underſtood by Letters from the Lord 'Deputy and Council of *Ireland*, that they had already iſſued 'the Writs for the ſummoning of a Parliament to be held in that King-'dom in *November* next. Foraſmuch as the Writs of Summons have 'been iſſued illegally contrary to the Statutes made in that behalf, *Anno* '*Hen.* 7. And 3 *Eliz.* And the due formality of a Licence, 'which ought to have been firſt obtained of his Majeſty under the 'Great Seal of *England*, was not obtained, whereby the ſaid Summons 'is in it ſelf Null and of none Effect, and the Parliament, (if any ſhould 'enſue thereupon) would be utterly void and fruitleſs. The Board 'for this Conſideration thought fit and Ordered, That all the Judges of 'his Majeſties Court at *Weſtminſter*, that are now in or near the City 'of *London*, ſhall be prayed and required forthwith to meet together, 'and calling to their Aſſiſtance the Commiſſioners for *Iriſh* Cauſes, eſ-'pecially Sir *Francis Ainſlow*, Vice-Treaſurer of *Ireland*, and Sir *Hen-'ry Holcroft*, together with the King and Queens Attorneys and Soli-'citors General, or as many of them as may be had, and take into 'their Conſideration as well the ſaid Letters written to the Board con-'cerning the ſaid Summons and the Errors committed in precipitately 'iſſuing of the ſaid Writs, as a Certificate made by the ſaid Commiſſio-'ners touching the due preparations for the calling of a Parliament in '*Ireland*, and upon the whole matter, as ſoon as may be, to certify 'their Opinions in writing what courſe they think fitteſt to be held for 'redreſs, and rectifying of the before rehearſed erroneous Proceedings, 'whether by revoking of the former Summons, ſuperceding or reſpi-'ting them for a time, or iſſuing out of new, and by what means it 'may be done, ether by Letters, Proclamations, or otherwiſe, as 'they ſhall think beſt, and moſt expedient for his Majeſties Honour 'and Service; that ſatisfaction and full aſſurance may be given to his 'Subjects of that Kingdom, of his Royal Intention to proceed in the 'calling of a Parliament, ſo ſoon as things may be done in ſuch manner 'and form as they ought to be, according to the antient Cuſtom.

Order of Reference to the Judges, concerning a Parliament in *Ireland*.

May it pleaſe your Honourable Lordſhips.

'ACcording to your Lordſhips Order the 19*th* of *September* laſt, we 'have taken into our Conſideration the Letters written from the 'Lord Deputy of *Ireland*, touching the Summons of a Parliament al-'ready made there, and the former Certificate made by his Majeſties

The Judges opinions concerning a Parliament haſtily called in *Ireland*.

An. 1629.

'Commiſſioners for *Iriſh* Cauſes, as was directed by the ſaid Order. 'Upon Conſideration whereof we find that the ſaid Summons already 'made, is unwarrantable; and that if a Parliament ſhould be aſſembled 'and proceed thereupon, all that ſhould be done therein, would be 'utterly void.

'The Statute of 10 *Hen.* 7. commonly called *Poyning's Act*, and the 'Statute 3 and 4 of *Phil.* and *Mary*, expounding and explaining the 'doubts conceived upon that Act, do preſcribe an abſolute form of 'ſummoning a Parliament in that Kingdom, which muſt be by a Certi- 'ficate firſt made by the Lord Deputy and Council from thence, of 'ſuch Acts as they would offer to his Majeſties Conſideration, with 'the Reaſons and Motives for the ſame to be enacted there, and that 'Certificate to be under the Great Seal of *Ireland*: Which Acts, ſo 'propounded, muſt be returned back from hence, approved or alte- 'red by his Majeſty, as by him ſhall be thought fit; together with his 'Majeſties Licence for ſummoning of a Parliament under the Great Seal 'of *England*, and then, and not before, the Summons of a Parliament 'there is to iſſue; wherein if any failure be of thoſe Circumſtances pre- 'ſcribed by theſe two Laws, which continue in force in that Kingdom, all 'that ſhall be done will be utterly void. We have alſo taken into our 'Conſideration, the Lord Deputies Commiſſion, wherein he hath 'power given him to ſummon the Parliament, but that is limited to 'be according to the Laws, Statutes, and Cuſtoms of that Kingdom, 'and with the King's Conſent firſt had, and not otherwiſe; which 'hath not been obſerved in the Summons of this intended Parliament 'in any of the points before mentioned, and therefore this Summons, 'notwithſtanding that power, is illegal and void.

'We have alſo obſerved the paſſage in the Lord Deputies Letter, 'as if by an Adjournment this might be remedied; but we are of opi- 'nion that that is not a right way, becauſe it fails in the ground of the 'Summons, So that upon the whole matter we humbly offer our Opi- 'nions, That the beſt courſe to be held for the rectifying of the Premi- 'ſes, and for avoiding of all miſ-inſtructions thereupon, will be this: 'That directions be given from hence with all poſſible ſpeed for a 'Proclamation to be there made, wherein this miſtaking, and the rea- 'ſons thereof, may be publiſhed, that ſo the Aſſembly may be preven- 'ted, until by a due and orderly preparation, Summons may be legally, 'according to the ſaid Laws and Statutes, and that by the ſame dire- 'ction they be adviſed to make due preparation for a Parliament, ac- 'cording to the recited Acts. Whereupon his Majeſty may be graci- 'ouſly pleaſed to ſend his Licence and Conſent under the Great Seal 'of *England* for the ſummoning of the Parliament, and ſo all may after 'proceed legally altho with ſome loſs of time, which cannot now be 'prevented. And if your Lordſhips ſhall ſo approve thereof, we 'humbly conceive it would not be amiſs for the better expedition of 'the Service, and for the avoiding of all miſtakings, that the form of a 'Proclamation to the effect aforeſaid were ſent thither, but to be 'made and proclaimed there, that the error may appear to have come 'from themſelves, as the truth is; which will moſt probably take a- 'way all jealouſy from the People. But we are of opinion that no 'General Writ of *Superſedeas* of the former Writ of Summons can be 'awarded, becauſe there neither was, nor can be any one General Writ 'of Summons, and afterwards particular Writs of *Superſedeas* to

'every

5 *Caroli.*

'every one ſummoned, would be infinite and inconvenient. All 'which we moſt humbly ſubmit to your Majeſties great Wiſdom and 'Judgment. *Serjeants-Inn* in *Chancery-lane*, Octob. 2. 1628.

Signed by

Thomas Richardſon,
Hen. Yelverton,
Geo. Vernon,
Rob. Heath,
Henry Holcroft,
Will. Jones,
George Trevour,
Fran. Ainſly,
Rich. Shilton,
John Finch,
Richard Hadzor.

In this conjuncture, the Lord *Faulkland* Lord Deputy of *Ireland*, put forth in the King's Name this enſuing Proclamation.

Proclamation by the L. Deputy and Council againſt Prieſts, Jeſuits, &c.

'FOraſmuch as we cannot but take notice that the late intermiſſion 'of legal Proceedings againſt Popiſh pretended or titulary Arch-'Biſhops, Biſhops, Abbots, Deans, Vicars General, Jeſuits, Friars, 'and others of that ſort, that derive their pretended Authority and 'Orders from the See of *Rome*, hath bred ſuch an extraordinary inſo-'lence and preſumption in them, as that they have dared of late not 'only to aſſemble themſelves in public Places to celebrate their Super-'ſtitious Services in all parts of this Kingdom, but alſo have erected 'Houſes and Buildings, called Public Oratories, Colleges, Maſs-Houſes, 'and Convents of Friars, Monks and Nuns, in the eye and open view 'of the State and elſewhere; and do frequently exerciſe Juriſdiction 'againſt his Majeſties Subjects, by Authority derived from the See of '*Rome*, and (by colour of teaching and keeping Schools in their pre-'tended Monaſteries and Colleges) do train up the Youth of this 'Kingdom in their Superſtitious Religion, to the great derogation and 'contempt of his Majeſties Regal Power and Authority, and great 'offence of many of his Majeſties good Subjects, contrary to the Laws 'and Eccleſiaſtical Government of this Kingdom, and the impove-'riſhment of his Majeſties Subjects in the ſame.

'Theſe are therefore to will and require, and in his Majeſties Name 'ſtraitly to charge and command all, and all manner of ſuch pre-'tended or titulary Arch-Biſhops, Biſhops, Deans, Vicars General, 'Arch-Deacons and others, deriving any pretended Authority, Power 'or Juriſdiction from the See of *Rome*, That they, and every of them, 'forbear from henceforth to exerciſe any ſuch Power, Juriſdiction, or 'Authority within this Kingdom; and that all ſuch Abbots, Priors, 'Jeſuits, Friars, Monks, Nuns, and others of that ſort, as aforeſaid, 'do forthwith break up their Convents and Aſſemblies in all Houſes 'of Friars, Colleges, Monaſteries, and other Places, whereſoever they 'are or ſhall be conventually or collegiately aſſembled together within 'this Kingdom, and to relinquiſh the ſame, and to diſpoſe and ſepa-'rate themſelves.

'And that all and every of the Orders before-named, and other 'Prieſts whatſoever, do from henceforth forbear to Preach, Teach, or 'celebrate their Service in any Church, Chappel, or other Public 'Oratory or Place, or to teach any School in any place or places 'whatſoever within this Kingdom.

'And

An. 1629.

'And we do further charge and command all and ſingular the 'Owners of ſuch Houſes of Friars, Colleges, Monaſteries, Schools, 'Oratories, Maſs-houſes, and Nunneries, That they and every of 'them reſpectively, in default of the Perſons before-named, their vo- 'luntary relinquiſhing of the ſaid Houſes of Friars, Colleges, Mona- 'ſteries, Schools, Oratories, Maſs-houſes, and Nunneries, do forth- 'with expel and thruſt forth all and ſingular ſuch Friars, Jeſuits, and 'other Monaſtical Perſons out of the ſame, and do convert the 'ſame to more lawful Uſes, upon pain to have their ſaid Houſes ſeized 'upon to his Majeſties uſe; and both the one and the other to be pro- 'ceeded againſt for their unlawful Aſſemblies, and maintenance of 'ſuch unlawful Conventicles and corrupt nurture of Children, in the 'ſevereſt manner that by the Laws and Statutes of this Kingdom, and 'Eccleſiaſtical Government of the ſame, may be had or extended; 'whereof they and every of them are to take notice, and to yield due 'obedience thereunto, as they and every of them will avoid his Ma- 'jeſties high Indignation, and the conſequence thereof.

The Proteſtant Arch-Biſhops and Biſhops in *Ireland* were about this time ſo much ſcandalized to ſee the boldneſs of the Titular Popiſh Arch-Biſhops and Biſhops, Abbots, Priors, Jeſuits, Friars, *&c.* reſiding in *Ireland*, to erect Houſes publickly to celebrate their Popiſh Superſtitious Services, *&c.* as they thought fit to publiſh a Declaration, in nature of a Proteſtation, againſt Popery, and a Toleration thereof, to the effect following.

The Proteſtation of the Biſhops in *Ireland* againſt Popery.

'THe Religion of Papiſts is Superſtitious and Idolatrous, their 'Faith and Doctrine Erroneous and Heretical, their Church (in 'reſpect of both) Apoſtatical; to give them therefore a Toleration 'of Religion, or to conſent that they may freely exerciſe their Reli- 'gion, and profeſs their Faith and Doctrine, is a grievous ſin, and that 'in two reſpects: Firſt, It is to make our ſelves acceſſary, not only 'to their ſuperſtitious Idolatries, Hereſies, and in a word to all the 'Abominations of Popery, but alſo (which is a conſequent of the 'former) to the Perdition of the ſeduced People which periſh in the 'Deluge of the Catholic Apoſtacy. Secondly, To grant them a To- 'leration in reſpect of any Mony to be given, or Contribution to be 'made by them, is to ſet Religion to Sale, and with it the Souls of the 'People, whom Chriſt our Saviour hath redeemed with his Blood; 'And as it is a great ſin, ſo it is a matter of moſt dangerous Conſe- 'quence: The conſideration whereof we leave to the Wiſe and Judi- 'cious, beſeeching the zealous God of Truth, to make thoſe who are 'in Authority zealous of God's Glory, and of the advancement of 'true Religion, zealous, reſolute and couragious againſt all Popery, 'Superſtition and Idolatry.

An Order of the Ld. Mayor of *London*, for reforming the Abuſes on the Sabbath-day.

'WHereas I am credibly informed, That notwithſtanding divers 'good Laws provided for the keeping of the Sabbath-Day Ho- 'ly, according to the expreſs Commandment of Almighty God, divers 'Inhabitants and other Perſons of this City, and other Places, having 'no reſpect of Duty towards God, and his Majeſty, or his Laws, but 'in contempt of them all, do commonly and of cuſtom greatly pro- 'phane the Sabbath-Day, in buying, ſelling, uttering, and venting

'their

5 Caroli.

'their Wares and Commodities upon that Day for their private Gain. 'Alſo Inholders ſuffering Markets to be kept by Carriers, in moſt rude 'and prophane manner, in ſelling Victuals to Huckſters, Chandlers, 'and all other Comers. Alſo Carriers, Carmen, Cloth-workers, 'Water-bearers, and Porters carrying of Burthens, and Watermen 'plying their Fares; and divers other working in their ordinary Cal-'lings. And likewiſe that I am further informed, That Vintners, Ale-'houſe-keepers, Tobacco and Strong-water-ſellers, greatly prophane 'the Sabbath-Day, by ſuffering Company to ſit drinking and bibbing 'in their Houſes on that day; and likewiſe divers by Curſing and 'Swearing, and ſuch-like Behaviour, contrary to the expreſs Com-'mandment of Almighty God, his Majeſties Laws in that behalf, and 'all good Government. For the Reformation whereof, I do hereby 'require, and in his Majeſties Name ſtraitly command all his Maje-'ſties Loving Subjects whatſoever: And alſo all Conſtables, Head-'boroughs, Beadles, and all other Officers whatſoever, to be aiding 'and aſſiſting to *J. S.* the Bearer hereof, in finding out and appre-'hending all and every ſuch Perſon and Perſons as ſhall be found to 'offend in any of theſe kinds; and them, and every of them to bring 'before Me, or ſome other of his Majeſties Juſtices of the Peace, to 'anſwer to all ſuch Matters as ſhall be objected againſt them, and to 'put in good ſecurity for their good behaviour. Whereof fail you 'not, as you or any of you will anſwer at your peril.

April 20. 1629.

Richard Deane

Mayor.

The French King ſhortly after the ſurrender of *Rochel*, was engaged to proſecute a War in *Italy*, which he declared was begun by the *Spaniard* in taking *Mantua* and *Monteferrat*, contrary to Capitulation; which obliged him to remedy with violence thoſe Uſurpations of the *Spaniards* over the Duke of *Savoy*, the French King's Allie, and ſent Cardinal *Richlieu* with an Army into thoſe Parts; of whoſe prudent Conduct in his Expedition formerly againſt *Rochel*, his Majeſty had had good experience.

Articles of Peace between *England* and *France*, agreed upon at *Suſa* in *Italy*.

It ſo hapned, that at *Suſa* in *Italy*, in the Month of *April*, by the Mediation of the *Venetian* Ambaſſador, Articles of Peace between the King of *Great Britain* and the King of *France* were agreed unto; and which were by that Agreement to be made public by both Princes the 10*th* of *May* following.

And accordingly the *French* King ordered them to be firſt publiſhed at *Privas*, (being gone from *Suſa* to the Camp before that City) to which his Forces had laid ſiege after the taking of *Rochel*; hoping by the ſurrender thereof, to bring the Proteſtants in *Languedoc* to terms of Peace.

And the Seiur *Le Bretagne*, French King at Arms, publiſhed the Peace there on the $\frac{10}{20}$*th* of *May*, 1629, in purſuance of his Majeſties verbal Command, marching before on Horſe-back, with Trumpet in hand, Colours flying, having mounted his Coat of Arms on his ſhoulders, his Cap Hat on his Head, and his Scepter in his Hand: and this publication was made in the ſight of the Beſieged in *Privas*, and within leſs than Canon-ſhot of the Town. The

An. 1629. The French King that day ſent a Summons to *St. Andre Montauban*, the Governor of *Privas*, to render the Town; which he then refuſed to do, yet on the 29*th* of *May* it was ſurrendred, but in great confuſion and ſlaughter of Men in the Town, by an accident that fell out.

The 10*th day of* May, *was publiſhed in* England *the Peace with* France.

The Peace with *France* publiſhed in *England*.

'WHereas there hath fallen out an interruption of Amity between 'the King's Majeſty and the moſt Chriſtian King; which the 'Common Friends and Ancient Allies of both the Crowns have ear-'neſtly laboured to repair, by propounding and negotiating a Recon-'cilement between them upon honourable Conſiderations, as well to 'their Kingdoms, as to the general Eſtate of Chriſtendom. The King's 'Majeſty thereupon conſidering how pleaſing it is to Almighty God, 'and neceſſary to the preſent conſtitution of Publick Affairs, to have 'Concord and good Intelligence with ſuch as be his Neighbours; and 'are further ſo nearly allied unto him, hath renewed the ancient 'Amity between the two Crowns, their Realms, Countries, Cities, 'Towns, Lands, Dominions, Territories, Signiores, Caſtles, and 'Subjects, by Land, Sea, and Freſh-water. By which Peace it is al-'ready provided, that all Hoſtility and War, as well by Sea as Land, 'ſhall ceaſe on either part from the 14*th* day of *April* laſt; and that 'the ſaid Kings and their Subjects ſhall live together in Peace; and 'that it ſhall be lawful for their Subjects freely, peaceably, and quiet-'ly, to go, come, remain, and to uſe and exerciſe their Trade and 'Commerce, and do all things elſe whatſoever in each others Coun-'tries, as freely as it hath bin done in any former time of Peace had 'between the ſaid Realms, and according to the ancient Treaties and 'Alliances between them, with opening of ſafe and free Trade be-'twixt the two Kings Dominions, according to theſe Treaties.

'And it is further ordained by the ſaid Peace, in regard there are 'many Ships at Sea with Letters of Mart, which cannot ſo ſoon take 'knowledg of this Peace, nor receive direction to forbear Hoſtility, 'that as whatſoever hath bin, or ſhall be done during the ſpace of two 'months after the ſaid 14*th* of *April* laſt, ſhall not derogate from, nor 'hinder the ſaid Peace of the two Crowns: So as whatſoever hath bin, 'or ſhall be taken within the foreſaid time, ſhall be reſtored, as well 'on the one ſide as on the other.

'All which Premiſes his Majeſty hath thought meet to notify to all 'manner of his Subjects of what eſtate ſoever, ſtrictly charging and 'commanding them, to obſerve, and perform, and accompliſh all that 'hereunto belongeth, as it is certainly promiſed to be publiſhed on the 'French King's ſide, the date of theſe Preſents being the Tenth of 'May, 1629.

The Articles of Peace were to this Effect.

Articles of Peace between the 2 Crowns of *England* & *France*, 1629.

1. THat the two Crowns ſhall remain agreed to renew the ancient Alliances betwixt them, and to keep the ſame inviolably, opening again the Commerce ſure and free. And concerning the ſaid Commerce,

Commerce, if there is any thing to be added or diminiſhed about the ſame, it ſhall be done on both Parts freely and willingly, as it ſhall be thought convenient.

2. And foraſmuch as it ſhould be difficult to make the reſtitution on the one and the other part of the divers Prizes, which during this War have bin taken, the two Crowns are agreed that there ſhall be made no Reſtitution. And there ſhall alſo not be granted any Repriſal by Sea, nor by any other ways whatſoever, for what is paſt between the two Kings and their Subjects during this laſt War.

3. Concerning the Articles and Contract of the Marriage of the Queen of *Great Britain*, the ſame are to be confirmed faithfully. And as for the ſaid Queen's Houſhold, if there be any thing to be added or diminiſhed, it ſhall be done by a mutual conſent freely and willingly, as it may be judged fit and convenient for the Service of the ſaid Queen.

4. All former and ancient Alliances both of the one and the other Crown, ſhall remain in their full force, they receiving no Alteration by the preſent Treaty.

5. The two Kings being by this preſent Treaty reunited in the ſame good Affection and Intelligence where they were formerly in, ſhall imploy themſelves, and endeavour mutually to give Aid and Aſſiſtance unto their Allies and Friends, according as by the Conſtitution of Affairs, and by the advantage of a common Good ſhall be required and ſuffered. And all this to the end thereby to procure an entire Quietneſs for Chriſtendom; for the good whereof the Ambaſſadors of the two Crowns ſhall receive Propoſitions and Overtures.

6. All theſe things being re-eſtabliſhed and accepted on the one and the other Part, there ſhall be ſent reciprocally extraordinary Ambaſſadors, Perſons of Quality, with the Ratification of the preſent Agreements; The which ſhall bring with them the denomination of Ordinary Ambaſſadors, that are to reſide in the one and the other Royal Court, thereby to confirm again the Union, and to hinder all occaſions that might trouble the ſame.

7. And whereas there are yet many Ships abroad in the Sea with Letters of Mart, and Commiſſion to fight againſt their Enemies, which cannot ſo ſoon have knowledg of this Peace, nor receive Order to abſtain from all Hoſtility; therefore it ſhall be agreed upon by Article, That whatſoever ſhall be taken during the ſpace of two months after the ſignature of this preſent Treaty, ſhall be reſtored on the one and the other ſide.

8. The two Kings ſhall ſign theſe preſent Articles on the 24*th* day of the Month of *April*, which ſhall afterwards be conſigned and delivered at the very ſame time by their Commandments into the hands of the Lords Ambaſſadors of *Venice*, reſiding near their Royal Perſons, to be mutually delivered to the ſaid two Kings at their prefixed day, as ſoon as each of them ſhall have knowledg of the other that they have the ſaid Articles in their hands, and from the day of the Signature, all Acts of Hoſtility both by Sea and Land ſhall ceaſe, and Proclamations needful to this effect ſhall be publiſhed upon one day within the two Kingdoms. Given, *&c.*

Certain Prieſts ſet at liberty.

His Majeſty at the inſtance of the Queen, in regard of the Peace concluded between the two Crowns, is graciouſly pleaſed that certain

An. 1629. Prieſts and Recuſants, who then were in ſeveral Priſons, ſhould be releaſed, and delivered to the *French* Ambaſſador to be tranſported beyond Seas, notwithſtanding any former Orders againſt ſuch Releaſes and Deliverances.

The Queen delivered of a Son.

May 13. about three of the Clock in the Morning, the Queen was delivered before her time of a Son; he was Chriſtened and died within a ſhort time, his Name *Charles*. This was *Aſcenſion*-Eve; and the next day being *Aſcenſion*-day, a little before Midnight, the Biſhop of *London* buried him at *Weſtminſter*.

July 7. *French* Wines prohibited.

Upon the Petition of the *French* Merchants, as well as of the Company of Vintners in *London*, the Importation of *French* Wines was prohibited for the ſpace of ſix months, by reaſon of the great quantities in Merchant's Cellars, already happening by the liberty taken during the time of the late Diſturbance with *France*; and command was given not to import any *French* Wines in Forreign Bottoms, contrary to the Laws.

July 12. Againſt ſelling of Ships to Strangers.

His Majeſty being informed that ſundry of his Subjects, Maſters and Owners of Ships, reſpecting more their private Gain, than the public Good and Safety of the Land, did ſell and diſpoſe to Strangers and Foreigners, their Ships, and other Veſſels, tending to the weakning of the Navigation of the Kingdom, Doth now publickly declare and command, that none of his Subjects do at any time hereafter preſume to ſell or alien any Ship or Veſſel, unto any Perſon, either born or reſident out of the King's Dominion, upon ſevere Penalties.

In this Month of *July* his Majeſty was pleaſed to order his Privy Council, to write a Letter on the behalf of Sir *Pierce Crosby* Knight, directed to the Lord *Faulkland*, Lord Deputy of *Ireland*, taking ſpecial Notice of his Service at the Iſle of *Retz*.

A Letter on the behalf of Sir *P. Crosby*.

WHereas his Majeſty, upon due conſideration of the extraordinary readineſs and ability of Sir Pierce Crosby, *in the levying and tranſporting of thoſe voluntary Troops employed under his Command at the Iſle of* Retz, *as alſo upon good experience, as well of his own as of the Officers and Souldiers well approved ſufficiency and fidelity in that Service, is reſolved to continue them ſtill in Employment; and hath therefore thought fit, with the Advice of this Board, to tranſmit them back again into* Ireland, *there to be entertained upon the Liſt of his Majeſties Army. And whereas you have received former direction from his Majeſty, bearing date the 4th day of* June *laſt, to raiſe ſeven new Companies to make up the number of forty eight. Now his Majeſtie's expreſs Will and pleaſure is, and We do in his Majeſties Name require your Lordſhip, that you forbear to raiſe any new Companies, notwithſtanding any former direction; and that you take effectual order that the Regiment of Sir* Pierce Croſby, *conſiſting of ten Companies beſides the Colonel's, may preſently be liſted as part of his Majeſties Army, under the ſame Captains and Officers that now command them; and that upon their landing in that Kingdom, the ſaid Sir* Pierce Croſby, *and Souldiers under his Command, may receive ſuch treatment and uſage as is preſcribed.*

This

5 *Caroli.*

This Gentleman ſome years after fell under the diſpleaſure of the Court of *Star-Chamber*; of which more in its proper time and place.

The 16*th* day of *September*, the *French King* ſwore the Peace in this Tenor. The ſwearing of the Peace by the *French* King *Lewis* the 13*th*.

'*Lewis* by the Grace of God, the moſt Chriſtian King of *France* 'and *Navarre*. We ſwear and promiſe upon our Faith and Roy-'al Word, upon the Holy Evangeliſt, on which We have laid Our 'Hand to that purpoſe, in the preſence of Sir *Thomas Edmonds* Knight, 'Embaſſador Extraordinary from the moſt High, moſt Excellent and 'Puiſſant Prince *CHARLES*, alſo by the Grace of God, King of '*Great Britain*, Our moſt Dear, Beloved and Good Brother-in-Law, 'Couſin and antient Allie, That We will accompliſh, obſerve, and 'cauſe to be obſerved and accompliſhed really and *bonâ Fide*, all and 'every the Points and Articles agreed upon, and imported by the 'Treaty of Peace and Reconciliation made and concluded between 'Us, and Our ſaid moſt dear Brother, and Brother-in-Law, Our 'Kingdoms, States, Countries and Subjects, the 14*th* of *April* laſt. 'Which Treaties and Articles We having heretofore approved and 'confirmed, do approve and confirm *de novo*; and do ſwear and pro-'miſe before God, with joined hands, that We will obſerve the 'ſame without any contradiction directly or indirectly, nor will per-'mit it any ways to be oppos'd; So help us God. In witneſs where-'of We have publicly ſigned theſe Preſents with Our own Hand, and 'put thereunto Our Seal, in the Church of *Fontainbleau* the 16*th* day 'of *September*, in the Year of Our Lord 1629, and of Our Reign 'the 20*th*.

The Grand Seignior about this time reſolving upon the Siege of *Bagdet*, or *Babylon*, the third time, ſends his Grand Viſier, *Conſeron Baſſa* to execute the Deſign, with Ammunition and Neceſſaries for his Army, which conſiſted of 200000 Men. His Military Diſcipline was admirable, for he puniſhed every Souldier with Death that wrong'd any one, upon the ſingle complaint of the Perſon injur'd. The Grand Seignior ſends his Viſier to beſiege *Babylon* with 200000 Men.

In order to this Siege, the Grand Viſier ſet forth from *Nicomedia*, and arriv'd at *Aleppo* on *Tueſday* the 25*th* of *September*. During his ſtay at *Aleppo*, which was from the 25*th* of *September*, to the 8*th* of *October*, he executed many for their Crimes and Offences: But the *Engliſh Conſul* was the firſt that was ſenſible of his ſeverity upon this Occaſion. There were four Men of War, *Corſaires*, who being met in the Port of *Alexandria*, they pillaged there three ſmall Veſſels of *Marſeilles*, there being a War at that time between *England* and *France*; and upon the French Conſul's Complaint to the Baſſa of *Aleppo*, the *Engliſh* Magazines and Merchandizes were ſeized, and moſt of the Merchants impriſoned, which made the *Engliſh* return them the Veſſels and Goods they had taken, and for the reſt agreed with the Baſſa, the Aga of *Alexandria*, Caddi and other Officers of Juſtice, but at the charge and coſt of above 50000 Crowns. The French Conſul complains of the Engliſh Conſul. Engliſh Merchandizes ſeized.

The Grand Viſier being encamped, he ſent for the *Engliſh Conſul*; and the Engliſh Merchants there on the 27*th* of *September* went to find

An. 1629. the Baſſa in his Tent; but beeing too late, they had no audience at that time.

The Morrow, being the 28*th*, the *French Conſul* viſited him very early, and was much careſſed by the Viſier; but he uſed the *Engliſh Conſul* ſtrangely, who came not till the Afternoon, and contrary to the Cuſtom, made him ſtand before him, whereas there uſeth to be a Seat appointed for him oppoſite to the Viſier, who asked him, with great paſſion, Why the *Engliſh* did make that attempt in a Free Port? The *Conſul* replied, They were not Pirates, but Men of War belonging to their King of *Great Britain*. He anſwered, with greater fury, *Then thy King hath violated the Capitulations, and I am no longer obliged to obſerve them*; and commands his Executioners to take the *Conſul* and his *Interpreter*, and hang them both before the Caſtle: But the Interpreter being not able to walk by reaſon of his corpulence, they would have hang'd him on a Tree, but that the Conſul gave them thirty Ducatoons to cut off the Interpreter's Head; which they did, and furniſhed the Conſul with a Horſe, and carried him Priſoner to the Caſtle, where he was put into a ſordid naſty Hole, not permitting any of his Friends to ſee him; ſo that they thought they would murder him in the night; but this was only to ſcrue Mony out of him, for ſeven days after he obtain'd his Liberty at the Rate of 30000 Ducatoons, as it is related in the *French Mercury*.

Condemns the Engliſh Conſul and his Interpreter to be hang'd.

The Engliſh Conſul ſaves his Life by 30000 Ducatoons.

On the 11*th* of *October*, the King expreſſed his pleaſure concerning the decay of Churches, to this effect.

To repair Churches and Chappels in decay.

'THat having of late taken ſpecial notice of the general Decay 'and Ruin of Pariſh-Churches in many parts of this Kingdom; 'and that by Law the ſame ought to be repair'd and maintain'd 'at the proper charge of the Inhabitants, and others having Land in 'thoſe Chappelries and Pariſhes reſpectively; who had wilfully ne-'glected to repair the ſame, being conſecrated Places of God's Wor-'ſhip and Divine Service: His Majeſty doth therefore charge and com-'mand all Arch-Biſhops and Biſhops, That they take ſpecial care of the 'repairing and upholding the ſame from time to time, and by them-'ſelves, and their Officers, to take a view and ſurvey of them, and to 'uſe the power of the Eccleſiaſtical Court, for putting the ſame in due 'execution; and that the Judges be requir'd not to interrupt this 'good Work, by their too eaſy granting of Prohibitions.

Goldſmiths ſhops in Cheapſide.

At this time the City of *London* was in great ſplendor, and full of Wealth, and it was then a moſt glorious ſight to behold the Goldſmiths Shops all of one row in *Cheap-ſide*, from the end of the Street called the *Old-Change* near *Pater-Noſter-Row*, unto the open place over againſt *Mercers-Chappel*, at the lower end of *Cheap*; there being at that time but three or four Shops of other Trades that interpoſed in the Row. Whereupon the Lords of the Privy Council were pleaſed, on the 18*th* of *November*, to make this following Order.

'FOraſmuch as his Majeſty hath received information of the unſeem-'lineſs and deformity appearing in *Cheap-ſide*, by reaſon that divers 'Men of mean Trades have Shops there amongſt the Gold-ſmiths; 'which diſorder, it is his Majeſties expreſs pleaſure to have reformed; 'Whereas

5 *Caroli.*

'Whereas by occaſion that Sir *Heneage Finch* Knight, and ſome Alder-'men did this day attend the Board upon other buſineſs, there was 'the ſame time alſo mention made of the aforeſaid deformity. It was 'thereupon thought fit and accordingly Ordered, That the two Lord 'Chief Juſtices, with ſuch other Judges as they ſhall think meet to call 'unto them, ſhall conſider what Statutes, or Laws there are, to en-'force the Goldſmiths to plant themſelves for the uſe of their Trade, in '*Cheapſide*, *Lumbard-ſtreet*, and the parts adjacent, and thereupon re-'turn Certificate to the Board in Writing, with all convenient expe-'dition. Of which Order the ſaid Lord Chief Juſtices are hereby 'prayed and required to take notice, and to perform the ſame accor-'dingly.

On the 19*th* of *December*, proviſion was made againſt the Tranſporting of Timber.

To prohibit the Tranſportation of Timber.

'WHereas his Majeſty and the Board, having been informed of the 'great decay of Timber, as well within the Kingdom of *Ireland* 'as here in *England*, and that Ship-Timber, and Pipe-Staves, and more 'particularly Knee-Timber, is grown very ſcarce both here, and in 'that Kingdom, and therefore the preſervation thereof doth much 'concern the good and ſafety of his Majeſties Dominions. Their 'Lordſhips being careful to prevent the Tranſportation thereof, have 'this day thought fit and Ordered, that the Lord Treaſurer do forth-'with give effectual Order and Directions to the Officers of the Ports '*of England*, That no Ship-Timber, eſpecially Knee-Timber, or Pipe-'Staves, be Tranſported to any parts out of this Realm, without ſpe-'cial direction from his Majeſty, or this Board. And that the like Or-'der be given to the Officers of the Ports of *Ireland*, for the reſtraint 'of all Tranſportation out of that Kingdom.

The Death of *Bethlem Gabor.*

In the Month of *November* this year, *Bethlem Gabor*, Prince of *Tranſilvania*, who had aſſiſted the Confederate Proteſtant Princes in the War, died of a *Dropſy*, to the great regret of the *Turks*, to whom he rendred many ſignal Services, and to the great ſatisfaction of the Emperor, who looked upon him as his moſt Puiſſant and redoubtable Enemy. Here followeth his Will.

His laſt Will and Teſtament.

The laſt Will and Teſtament of *Bethlem Gabor* was opened, the particulars whereof were as followeth; as it appeared upon the peruſal thereof, *viz.* That he did give and bequeath to his Imperial Majeſty one Horſe very richly harneſſed, together with 40000 Duckets *in ſpecie*; as alſo to his Majeſty the King of *Hungaria*, one of the beſt Horſes that ever was ſeen, with the Collar, Bridle and Saddle embroidered all over with Gold, Silver and precious Stones; and withal 40000 Duckets *in ſpecie*. To the Emperor of the *Turks*, ſuch another gallant Horſe, with 40000 Duckets in like manner. To his Wife, the Princeſs of *Tranſilvania*, 100000 Duckets, 100000 Rix-Dollars, 100000 *German* Florins, and three conſiderable Signories, which ſhe was to enjoy, during Life; and made the Emperor of the *Turks* his ſole Executor.

The 30*th* of *December*, certain Inſtructions were ſent from his Majeſty to the Arch-Biſhops of *Canterbury* and *York*, under this Title, *viz.*

Inſtru-

An. 1629.

Inſtructions for the moſt Reverend Father in God, Our Right Truſty, and Right Intirely Beloved Councellor, George *Lord Arch-Biſhop of* Canterbury, *concerning certain Orders to be obſerved, and put in Execution by the ſeveral Biſhops in his Province.*

Afterwards called *Regal Inſtructions*, differing in ſome things, from the Biſhop of *London's* Conſiderations before mentioned.

'THat the Lords the Biſhops give Charge in their Triennial Viſitations, and at other convenient times, both by themſelves, and the 'Arch-Deacons; that the Declaration for the ſetling all Queſtions in 'difference, be ſtrictly obſerved by all Parties. That there be a ſpeci-'al Care taken by them all, that their Ordinations be Solemn, and 'not of unworthy Perſons.

'That they take great Care concerning the Lectures in their ſeveral 'Dioceſſes, for whom We give theſe ſpecial Directions following.

1. 'That in all Pariſhes the Afternoon Sermons be turn'd into Cate-'chiſing by Queſtion and Anſwer, where, and whenſoever there is 'not ſome great Cauſe apparent to break this Antient and profitable 'Order.

2. 'That every Biſhop ordain in his Dioceſs, That every Lecturer 'do read Divine Service, according to the Liturgy printed by Autho-'rity, in his Surplice and Hood, before the Lecture.

3. 'That where a Lecture is ſet up in a Market-Town, it may be 'read by a Company of Grave and Orthodox Divines near adjoining, 'and in the ſame Dioceſs; and that they preach in Gowns, and not in 'Cloaks, as too many do uſe.

4. 'That if a Corporation do maintain a ſingle Lecturer, he be not 'ſuffered to preach, till he profeſs his willingneſs to take upon him a 'Living with Cure of Souls within that Corporation; and that he do 'actually take ſuch Benefice, or Cure, ſo ſoon as it ſhall be fairly pro-'cur'd for him.

5. 'That the Biſhops do countenance and encourage the Grave and 'Orthodox Divines of their Clergy; and that they uſe means, by ſome 'of the Clergy or others, that they may have knowledg how both 'Lecturers and Preachers within their Dioceſſes behave themſelves in 'their Sermons, that ſo they may take order for any Abuſe accor-'dingly.

6. 'That the Biſhops ſuffer none, under Noblemen, and Men qua-'lified by Law, to have any private Chaplain in his Houſe.

7. 'That they take ſpecial care that Divine Service be diligently 'frequented, as well for Prayers and Catechiſms, as Sermons; and 'take a particulare note of all ſuch as abſent themſelves, as Recuſants, 'or otherwiſe.

8. 'That every Biſhop, that by Our Grace and Favour, and good 'Opinion of his Service, ſhall be nominated by Us to another Bi-'ſhoprick, ſhall, from that day of nomination, not preſume to make 'any Leaſe for three Lives, or 21 Years, or concurrent Leaſe; or 'any ways to renue any Eſtate, or cut any Wood or Timber, but mere-

ly

5 *Caroli.*

'ly to receive the Rents due, and quit the Place: For we think it a 'hateful thing, that any Man's leaving the Biſhoprick, ſhould almoſt 'undo the Succeſſor. And if any Man ſhall preſume to break this 'Order, We will refuſe Our Royal Aſſent, and keep him at the place 'he hath ſo abus'd.

9. 'And laſtly; We command you to give Us an account, every 'Year, the ſecond of *January*, of the performance of theſe Our Com-'mands.

Theſe Regal Injunctions were ſent to the Arch-Biſhops of *Canterbury* and *York*, and by them to all the Biſhops in both the Provinces.

The Miniſters and Lecturers about *London*, ſummoned upon this occaſion before the Bp. of *London*.

And in purſuance thereof, the Biſhop of *London* ſummoned all Miniſters and Lecturers within the City and Suburbs of *London*, and making a ſolemn Speech, preſſed obedience to his Majeſties Inſtructions, as being full of Religion and Juſtice, and advantagious to the Church and Common-wealth; tho they were miſtaken by ſome, before it was poſſible for them (as he ſaid) to ſee and weigh them.

And afterward the ſaid Biſhop, in order to procure ready Obedience to the King's Inſtructions, wrote this enſuing Letter to ſeveral Arch-Deacons.

The Biſhop of *London*'s Letter concerning the King's Inſtructions for the Clergy.

SIR,

THeſe are to let you underſtand, That his Majeſty, out of his Royal and Princely Care that the Government of the Church be carefully looked unto by the Biſhops, and others with whom it is truſted, hath lately ſent certain Inſtructions to my Lord's Grace *of* Canterbury, *and of* York, *to be by them diſperſed to the ſeveral Biſhops of each Dioceſs within their Provinces; to the intent, that whatſoever concerns any Biſhop perſonally, or otherwiſe, in reference to thoſe of the Clergie which they are to govern, may be by every of them readily and carefully performed. The Inſtructions which concern the Perſons to be Governed, are only the Third, for keeping the King's Declaration, that ſo Differences and Queſtions may ceaſe; and the Fifth about Lecturers, and the Seventh concerning private Chaplains in the Houſes of Men not qualified; and the Eighth about, either Recuſants, or any other that abſent themſelves from Church and Divine Service. All the reſt are perſonal to the Biſhops; yet becauſe they are ſo full of Juſtice, Honour, and Care of the Church, I ſend to you the whole Body of the Inſtructions, as they came to me, praying and requiring you, as Arch-Deacon of* London, *to ſend me at or before* Wedneſday *the third of* February *next, both the Chriſtian and Sirnames of every Lecturer within your Arch-deaconry; as well in places exempt, as not exempt; and the place where he preacheth, and his Quality and Degree. As alſo the Names of ſuch Men as being not qualified, keep Chaplains in their Houſes. And theſe are farther to pray, and in his Majeſties Name to require you, that you leave with the Parſon or Vicar of the place, a Copy, not of all, but of the four Inſtructions mentioned, with the four ſeveral Branches belonging to the Lecturers, with a charge, That the Parſon or Vicar deliver another Copy of them to the Church-Wardens; and that you do not only call upon them for Performance now preſently, but alſo take a great care from time to time, that at the end of your next Viſitation, and ſo forward at the*

An. 1629. *the end of every ſeveral Viſitation, I may, by your ſelf or your Officials, have true notice how they are perform'd, and where, and by whom they are diſobeyed: For ſo much my Lord's Grace of* Canterbury *requires of me, as you ſhall ſee by the Tenor of his Grace's Letters to me here incloſed. I pray you in any caſe not to fail in this, for if you ſhould, when I come to give up my Account, I muſt diſcharge my ſelf upon you; and that neglect would make you go backward in his Majeſties favour, beſides whatſoever elſe may follow. Thus, not doubting of your care and fidelity in this behalf, I leave you to the Grace of God; and ſhall ſo reſt,*

Jan. 4. 1629. *Your very loving Friend,*

Will. London.

Mr. *Bernard* queſtion'd in the High Commiſſion, for ſome words in his Prayer before Sermon.

On the 28*th* of January, Mr. *Bernard* Lecturer at St. *Sepulcher*'s Church, *London*, had this Expreſſion in his Prayer before Sermon; *Lord, open the eyes of the Queen's Majeſty, that ſhe may ſee Jeſus Chriſt, whom ſhe hath pierced with her Infidelity, Superſtition, and Idolatry.* For theſe Expreſſions he was queſtion'd in the High Commiſſion Court, and the Court did declare, that the ſame were ſcandalous and unadviſed Speeches, derogatory to ſome particular Perſon of moſt eminent Place, which the Court did not deſire to have repeated: But in regard the ſaid Mr. *Bernard* made an humble ſubmiſſion, the Court deſired the Biſhop of *London* to acquaint his Majeſty therewith, and afterward Mr. *Bernard* was diſmiſſed.

A Letter from the Lords of the Council to the Mayor of *Chicheſter*, *January* the 4*th*, $16\frac{28}{29}$.

Billeting of Souldiers oppoſed at *Chicheſter*.

WE have bin made acquainted with your Letters of the 4th of January *inſtant, to our very good Lord the Earl of* Dorſet, *concerning the oppoſition threatned by divers of the Inhabitants of that Town, in the Billeting of Souldiers directed to be ſent thither, by Letters from this Board of the 28th of this laſt Month. The manner and circumſtances whereof, in threatning to ſhut the Gates of the City againſt them, as if you aſſumed to be a Free-State, and to give Law to your ſelves, with other Inſolencies both in Speech and Action; which ſeem to us ſtrange and unheard of from Perſons living under a Civil Government; As that the ſame being come to his Majeſties Ears, he doth much marvel, and is highly diſpleaſed therewithal. And whereas we underſtand that two of the Burgeſſes of the Town have been the principal Encouragers of the ſaid Oppoſition, by taking upon them to tell you (the Mayor) that there could be no more Billeting of Souldiers by Law; and accordingly adviſed you (the Mayor) to take heed what you did, for that the Parliament would call you to an account for it, We therefore, by his Majeſties expreſs command, have ſent the Bearer hereof, one of the Meſſengers of his Majeſties Chamber, with Warrant for the taking into cuſtody, and bringing before us the ſaid two Burgeſſes; requiring you to be aiding and aſſiſting unto him in the execution of his ſaid Warrant. And we do likewiſe will and require you the Mayor, together with your Recorder, and two other Aldermen, ſuch as you ſhall think fit, to make your ſpeedy repair hither to attend us at our next ſitting at* Whitehal. *Hereof you may in no wiſe fail. And ſo,* &c.

In

5 *Caroli.*

In *Ireland* the Popiſh Biſhops, Abbats, Vicars, Jeſuits, *&c.* and others of that ſort, aſſembled themſelves throughout the Kingdom, in publick places to celebrate their Services, and erected Buildings, Colleges, Convents of Monks and Nuns, in the Eye and open view of the State, exerciſing Juriſdiction by Authority derived from the See of *Rome*, which every day took growth; And His Majeſty and the Lords of the Council being advertiſed thereof from *Ireland*, on the 31 of *January* 1629, wrote the enſuing Letter, directed to the Lords Juſtices and Council of *Ireland*.

A Letter to the Lords Juſtices, and Council of *Ireland*.

A Letter from the *Privy Council* in *England* to the Lords Juſtices in *Ireland*, againſt the Convents of Friars, Nuns *&c.* erected in *Ireland*.

BY your Letters we underſtand how the ſeditious Riot, moved by the Fryars and their Adherents at Dublin, *hath by your good Order and Reſolution been happily ſuppreſt; And we doubt not but by this occaſion, you will conſider how much it concerneth the good Government of that Kingdom, to prevent in time the firſt growing of ſuch evils. For where ſuch People are permitted to ſwarm, they will ſoon make their Hives, and then indure no Government but their own, which cannot otherwiſe be reſtrained, than by a due and ſeaſonable execution of the Laws, and ſuch Directions as from time to time have been ſent from his Majeſty and this Board. Now it redoundeth much to his Majeſtes Honour, that the World ſhall take notice of the ability and good ſervice of his Miniſters there, which in Perſon he hath been pleaſed openly in Council, and in moſt gracious manner to approve and commend, whereby you may be ſufficiently incouraged to go on with like reſolution and moderation till the Work be fully done, as well in that City, as in the other places of that Kingdom. The carriage whereof we muſt leave to your own good diſcretions, whoſe particular knowledg of the preſent ſtate of things, can guide you beſt when and where to carry a hard or a ſofter hand; only this we hold neceſſary to put you in mind, that you continue in that good Agreement among your ſelves, for this and other Services, which your Letters do expreſs, and for which we commend you much. That the good Servant of the King and State may find encouragement equally from you all, and the ill-affected may find no ſupport or countenance from any, or other connivance uſed, than by general advice, for avoiding further evils, ſhall be allowed. And ſuch Magiſtrates or Officers, if any ſhall be diſcovered, that openly, or under-hand, favour ſuch diſorders, or do not their duties in ſuppreſſing them, and puniſhing the Offenders, you ſhall do well to take all fit and ſafe advantages, by the puniſhment or diſplacing of a few, to make the reſt more cautious. This we write not as miſliking the fair courſe you have taken, but to expreſs the concurrence of our Judgments with yours. And to aſſure you of our Aſſiſtance in all ſuch Occaſions, wherein for your further Proceedings, we have adviſed, and his Majeſty requireth you accordingly to take Order, Firſt, That the Houſe where ſo many Fryars appeared in their Habits, and wherein the Reverend Arch-Biſhop and the Mayor of* Dublin *received the firſt affront, be ſpeedily demoliſhed; and be a mark of terror to the Reſiſters of Authority: and that the reſt of the Houſes erected, or imployed there, or elſewhere in* Ireland, *to the uſe of Superſtitious Societies, be converted to Houſes of Correction, and to ſet idle People on work, or to other publick uſes, for the advancement of Juſtice, good Art or Trade. And further, that you uſe all fit means to diſcover the Founders, Benefactors, and Maintainers of ſuch Societies and Colleges, and certify us their Names. And that you find*

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Signed by

Lord Keeper.	*Earl of* Salisbury.
Lord Treaſurer.	*Earl of* Kelley.
Lord Preſident.	*Lord Viſcount* Dorcheſter.
Lord Privy Seal.	*Lord* Newburgh.
Lord High Chamberlain.	*Mr.* Vice Chanceller.
Earl of Suffolk.	*Mr.* Secretary Cook.
Earl of Dorſet.	*Sir* William Alexander.

Mr. *Chancey*, a Miniſter, queſtioned in the High-Commiſſion.

Mr. *Charles Chancy*, Miniſter of *Ware*, uſing ſome Expreſſions in his Sermon: *That Idolatry was addmitted into the Church*; *That the preaching of the Goſpel would be ſuppreſſed*; *That there is much Atheiſm, Popery, Arminianiſm, and Hereſy crept into the Church.* And this being looked upon to raiſe a fear among the People, that ſome alteration of Religion would enſue; He was queſtioned in the High-Commiſſion, and by Order of that Court the Cauſe was referred to the Biſhop of *London*, being his Ordinary, who ordered him to make a Submiſſion in *Latin*.

Certificate againſt Mr. *Palmer*, for non-Obedience to the Inſtructions.

Mr. *Dean*, Arch-Deacon of *Canterbury*, in purſuance of the aforeſaid Inſtructions, did certify, that Mr. *Palmer*, a Lecturer in St. *Alphage*, *Canterbury*, had no Licence to preach there. That he read Prayers againſt the Miniſter's Will; and Cathechiſed, but not according to Canon. That in the Cathechiſing he took upon him to declare the King's Mind in his Inſtructions. That he had never heretofore read Prayers, or uſed the Surplice in the Pariſh. That he preached a Factious Sermon in the Cathedral Church, and detracted from Divine Service there. That Factious Parties in all the Pariſhes in the Town are his Auditors.

Hereupon the Commiſſioners willed Mr. *Palmer* to deſiſt; but they did further certify, they had ſince been informed that his Grace the Arch-Biſhop of *Canterbury* (meaning Arch-Biſhop *Abbot*) hath authoriſed Mr. *Palmer* to preach again, but he did not long continue there.

A Grant under the Great Seal for relief of the exiled *Palatinate* Miniſters.

'HIS Majeſty having heretofore received certain Information, as 'well by the Miniſters and Elders of the *Dutch* Churches both in 'the Parts beyond the Seas, and in our City of *London*, as by the ſpe-'cial earneſt Recommendation of our Deareſt Siſter, and Her Royal 'Conſort, our Dear Brother the Prince Elector *Palatine*, of the moſt 'diſtreſſed and lamentable Eſtate, of the poor exiled Miniſters of the

Palatinate

5 Caroli.

'*Palatinate*, their Wives and Children, who falling into the power of 'their cruel Enemies, have been ſpoiled of all their Temporal Eſtates, 'and expoſed unto unexpreſſible Miſeries, and are now enforced, as 'Exiles, to retire and hide themſelves from the violence of their Ad-'verſaries, in ſeveral Cities, Towns, and other Places, where they live 'in very great penury and want; moſt of them having formerly had 'plentiful and liberal Means to ſuſtain their own Charge, and to be 'helpful to others, whoſe Caſes are the more to be deplored, for that 'this extremity is fallen upon them for their *Sincerity and Conſtancy in 'the true Religion*; *which we together with them do profeſs, and which we 'are all bound in Conſcience to maintain to the utmoſt of our Powers.* 'Whereas theſe Religious and Godly Perſons being involved amongſt 'many others their Country-men, in that common Calamity, might 'have enjoyed their Eſtates and Fortunes, if with other Back-ſliders 'in the time of trial they would have ſubmitted themſelves to the 'Anti-chriſtian Yoke, and have renounced or diſſembled the profeſ-'ſion of the true Religion. The King taking theſe things into his 'Princely Conſideration, and being moved with the Bowels of Com-'paſſion towards them, as feeling Members of the ſame Body, where-'of Chriſt alone is the Head. And being certainly informed, that 'thoſe of the *United Provinces*, and divers other *Proteſtants* in other 'places, have bountifully contributed towards their Neceſſities. And 'the King being aſſured that all his loving Subjects of this his King-'dom, who have long enjoyed the freedom of the Goſpel, and have 'taſted largely of the Comfort thereof, will not be inferior to any in a 'work ſo full of Piety and Charity towards their diſtreſſed Bre-'thren.

'His Majeſty, Out of his Princely Grace doth Order and Grant, that 'a General Collection be made of the charitable Devotions and Libe-'ralities of all his loving Subjects throughout this his Realm of *England* 'and Dominion of *Wales*, towards the relief and ſuccour of the ſaid 'poor Exiles.

After this Patent was paſſed the Great Seal, the Biſhop of *London* being diſſatisfied at ſome Expreſſions therein, moved his Majeſty concerning the ſame, and prevailed to have the Patent cancelled, to the end theſe Words following might be left out, *viz. Which Religion we together with them profeſs, and are all bound in Conſcience to maintain to the uttermoſt of our Power.* And accordingly that Patent under the Great Seal was cancelled, and a new Patent to all the intents and purpoſes as the former, was granted, and did paſs the Great Seal; The Words laſt abovementioned being wholly left out.

The King's affection to, and great care of his only Siſter the Queen of *Bohemia*.

Towards the latter end of this year, the King did ſeriouſly take into his Thoughts and Care the diſtreſſed Condition of his only Siſter, the Queen of *Bohemia*, being driven out of the *Palatinate* by the Emperor, and her Huſband's Patrimony given to the Duke of *Bavaria*, and therefore was willing to hearken to the Ambaſſadors of Forreign Princes who applyed to His Majeſty in their Maſters Names to join with the *French King* to mediate a Peace between the King of *Poland* and the King of *Sweden*, then at Warrs together. Which Mediation thoſe two Kings immediately undertook, and prevailed for a Truce for ſix years; the one fearing leſt the Emperor being victorious againſt the confederate Proteſtant Princes, ſhould through his ſucceſs endea-

The Kings of *England* and *France* make a Peace between the Kings of *Sweden* and *Poland*.

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vour to extend his Empire to the prejudice of *France*; and the other hoping by making a Peace between the *Swede* and the *Pole*, to get the *Swede*'s Aſſiſtance for the recovery of the *Palatinate*.

The King of *Sweden* deſigns an expedition into *Germany*.

The King of *Sweden* after making the ſaid Truce, finding the Inclinations of his Army for Action abroad, reſolved to keep them together in order to a deſign upon *Germany*, giving out that he would relieve the oppreſſed Princes and People of thoſe Provinces in *Germany*, and endeavour to reſtore them to their antient and undoubted Rights and Liberty.

Sends an Ambaſſador into *England*.

In order to this Deſign, he ſent an Ambaſſador into *England* to treat for Aſſiſtance, and the King of *Bohemia* and the Queen, writ effectually to the King of *England* her Brother upon the ſame account; the Queen of *Bohemia* alſo writ to Marqueſs *Hamilton*, her neareſt Kinſman and greateſt Confident, to be Inſtrumental with the King her Brother, to aſſiſt the King of *Sweden* with Forces.

The King reſolves to raiſe 6000 Men.

His Majeſty readily complyed with the deſires of the King and Queen of *Bohemia*, and reſolved to raiſe an Army of 6000 Men, to go under the Conduct of Marqueſs *Hamilton*, which ſhould not appear to the World to be any otherwiſe raiſed, than as the voluntary aſſiſtance of his Subjects, for it was not then convenient publicly to diſoblige the Emperor, while Sir *Robert Amſtrother* was Ambaſſador at that Court, to endeavour the Reſtitution of the *Palatinate*; and hopes there were at the ſame time by a Treaty with *Spain* to gain the ſame.

Col. *Alex. Hamilton* and *Ramſey* ſent to the King of *Sweden*.

Hereupon towards the latter end of this Year, the Marqueſs ſent Col. *Alex. Hamilton*, Brother to the Earl of *Haddington*, to the King of *Sweden*, with a general offer of his Services; which was affectionately received by that King, who preſently ſent him a Commiſſion to be General of what Army he ſhould bring over. And to expedite a Treaty with the *Swede*, upon what terms and conditions the Marqueſs ſhall engage upon that Deſign: His Lordſhip alſo ſent unto the King one *David Ramſey*, a Scottiſh Man (a Gentleman of the Privy Chamber to the King of *England*) who well underſtood the *German* Language, and was recommended to his Majeſty by the King and Queen of *Bohemia*, as one who had approved himſelf faithful to the Intereſt of the *Palatinate* Cauſe.

Execution of the Emperor's Edict in favour of the Catholic Clergy at *Auſpurg*.

About this time the Emperor upon ſeveral Remonſtrances, commands his Edict in favour of the Romiſh Eccleſiaſtics at *Auſpurg* and other parts, to be put in Execution, which is in the Circle of *Suabia*, where the Imperial Commiſſioners arrived in the City of *Auſpurg*, with ſome Companies of the Peaſantry, raiſed in the Territories of the Biſhop of the ſaid City; where they gave the Governor of their Miniſtry to underſtand his Imperial Majeſties Mandate and Pleaſure, That they ſhould reſtore all Eccleſiaſtic Goods to their lawful Proprietors; and during the execution hereof, all the Churches of the City were ſhut up. They alſo acquainted the Proteſtant Paſtors of the *Auguſtan* Confeſſion with the ſame Mandate; That they muſt wholly forbear the exerciſe of their Religion; that thoſe among them who had the priviledg of Burgers, may continue there, and for the reſt, they were commanded to depart the City, and retire to ſome other place. During the ſaid execution, all the Inhabitants were enjoined

joined to confine themſelves to their Houſes, and to follow their Trade there, without ſtirring forth. 5 *Caroli.*

Some ſmall time after, his Imperial Majeſty finding it expedient that the Exerciſe of the Profeſſion of *Auſpurg* ſhould be abſolutely and totally aboliſhed there; and being adviſed that there were in that City ſome Perſons who oppoſed his Imperial Majeſties Decrees in that behalf. Hereupon the Emperor's Commiſſaries, the Biſhop, Magiſtrates, and Clergy, threatned even to plunder and burn all that they had; and commanded them to abſtain from ſeditious Expreſſions upon pain of Death: And declared to the Proteſtant Paſtors, That they were to withdraw themſelves for the time to come, for that the Catholic Biſhop ſhould, as his proper right, hold the ſaid Epiſcopal See.

The Exerciſe of *Auſpurg* Proteſtant Religion to be aboliſhed.

Eccleſiaſt. Juriſdict. recommitted to the lawful Catholic Biſhop.

The ſame Edict was alſo executed in the Town of *Halberſtadt* on the 26*th* of *December*, the Imperial Commiſſioners being received very ſplendidly by the Duke of *Fridland* and Count *Tilly*. Two days after their Reception, they began to conſider of the Places and Revenues to be reſtored to the Catholics; and though the Proteſtants detaining them, pretended to defend themſelves by the aſſurances of the Emperor's Grant made to them; the Commiſſaries notwithſtanding all that, proceeded in their Deſigns with rigor.

The like at *Halberſtadt*.

The Proteſtants inſiſt on the Emperor's Grant in 1628

Alſo *Walleſtein* Duke of *Fridland*, and his Heirs, were ſolemnly inveſted by the Emperor at *Vienna* with the Dukedoms of *Mecklenburg*, and that by right of a *Fee Imperial*, and by virtue of a certain Declaration of his Imperial Majeſties publiſhed againſt the Dukes of *Mecklenburg*, and ſent to the Elector of *Saxony*, whereby they ſtood accuſed of High Treaſon, Rebellion, *&c.* And that, if they did not ſubmit to this Declaration, they ſhould be proceeded againſt by the Ban of the Empire.

The Duke of *Fidland* inveſted with the Dukedoms of *Mecklenburg*.

The King of *Sweden* hearing of theſe and other violent proceedings againſt the Proteſtant Princes, haſtned his preparations for an expedition into *Germany*; and in the beginning of the next year 1630, concludes upon Tearms with Marqueſs *Hamilton*, for the aſſiſtance of 6000 Men to be tranſported into *Germany*; of which more particularly in time and place in the next year.

An Inſtrument in Writing was on the 27*th* of *March* drawn up, declaring the death of King *JAMES*, and that by his Deceaſe, the Imperial Crowns of *Great Britain*, *France*, and *Ireland*, are rightfully come to the High and Mighty Prince *CHARLES*: Which Writing was in the firſt place ſigned by *John Gore*, then Lord Mayor of *London*; After him by *George* Lord Arch-Biſhop of *Canterbury*; *John* Lord Biſhop of *Lincoln*, Keeper of the Great Seal of *England*; then by the Lords Temporal, and ſuch other Nobility and Gentry as appeared together at that time. Which Writing, after the ſaid Subſcriptions, was publiſhed in Print by *Bonham Norton* and *John Bill*.

Prince *Charles* proclaimed King.

We hope the Reader will not think his time miſpent, to take a view of the Titles of King *Charles* his Proclamations, as they came forth in order of time, from the firſt Year of his Reign. Wherein the Reader may obſerve where the Court was kept when any of thoſe Proclamations were ſigned. And the Author in the Appendix doth alſo ſet down the ſubſtance of many of the moſt material of thoſe Proclamations for the Reader's further ſatisfaction.

Titles

An. 1629.

Titles of PROCLAMATIONS, *&c.*

Pro Anno 1625.

St. *James's*, *March* 28. A Proclamation ſignifying his Majeſties Pleaſure, That all Men being in Office of Government at the Deceaſe of his moſt Dear and moſt Royal Father, King *James*, ſhall ſo continue till his Majeſties further Directions.

By the KING.

St. *James's*, *March* 28. A Declaration of the Death of his Father King *James* of the 27*th* of *March*, and of his being inveſted in the Crown Imperial of this Realm, and all other his Majeſties Dominions; That he doth not miſtruſt but that they will ſhew themſelves obedient Subjects.

St. *James's*, *April* 1. A Proclamation to Inhibit the Sale of Latine Books reprinted beyond Seas, having bin firſt printed in *Oxford* or *Cambridg*.

Whitehall, April 13. A Proclamation for the maintenance and increaſe of the Mines of Salt-Peter, and the true making of Gunpowder, and reforming abuſes concerning the ſame.

Whitehall, April 13. A Proclamation prohibiting the Importation of Allom, and the buying and ſpending thereof in any his Majeſties Dominions.

Whitehall, May 2. A Proclamation concerning Buildings and Inmates within the City of *London*, and Confines of the ſame.

Whitehall, May 30. A Proclamation for the continuing of Our Farthing Tokens of Copper, and prohibiting the counterfeiting of them, and the uſe of all other.

Whitehall, May 13. A Proclamation for ſetling the Plantation of *Virginia*.

Whitehall, May 14. A Proclamation for the Prices of Victuals within the verge of the Court.

Whitehall, May 15. A Proclamation for the reſtraint of Diſorders in Souldiers Preſt for his Majeſties Service.

Whitehall, May 17. A Proclamation for reſtraint of diſorderly and unneceſſary reſort to the Court.

Whitehall, May 26. A Declaration to the ſame effect.

Whitehall, June 18. A Proclamation for the Adjournment of part of *Trinity* Term.

Oatlands, July 12. A Proclamation concerning the Adjournment of the Parliament.

5 *Caroli.*

A Proclamation for the removing the Receipt of his Majeſties *Exchequer*, from *Weſtminſter* to *Richmond*. *Ricot*, July 31.

A Proclamation prohibiting the keeping of *Bartholomew* Fair, and *Sturbridg* Fair. *Woodſtock*, Auguſt 4.

A Proclamation for recalling his Majeſties Subjects from the Seminaries beyond the Seas, and putting the Laws againſt Jeſuits in Execution. *Woodſtock*, Auguſt 14.

A Proclamation for the Adjournment of part of *Michaelmaſs* Term. *Tichfield*, Septemb. 4.

A Proclamation for making currant certain *French* Coin. *Tichfield*, Septemb. 4.

A Proclamation for the calling home of all ſuch his Majeſties Subjects as are now employed either by Sea or Land in the Services of the Emperor, the King of *Spain*, or the Arch-Dutcheſs. *Tichfield*, Septem. 11.

A Proclamation for the further Adjournment of *Michaelmaſs* Term. *Salisbury*, Octob. 11.

A Proclamation for the avoiding of all Intercourſe between his Majeſties Royal Court, and the Cities of *London* and *Weſtminſter*, and Places adjoining. *Salisbury*, Octob. 17.

A Proclamation for the commanding of all Souldiers lately employed in the Fleet, upon their Arrival, not to depart from their Colours. *Windſor*, Decemb. 15.

A Proclamation to forbid the Subjects of the Realm of *England*, to have any Trade or Commerce within any the Dominions of the King of *Spain*, or the Arch-Ducheſs. *Hampton-Court*, Dec. 24.

A Proclamation for the well managing and arming of the Ships of or belonging to this Realm, upon their ſetting forth to Sea. *Hampton-Court*, Dec. 24.

A Proclamation againſt imbezelling of Armour, Munition, and Victual, and other Military Proviſions. Manner of *Hampton*, Dec. 25.

A Proclamation to declare his Majeſties Pleaſure, that a former Reſtraint enjoined to the Citizens of *London* for repairing to Fairs for a time, is now ſet at liberty. *Hampton-Court*, Dec. 30.

A Proclamation for the better confining the Popiſh Recuſants convict according to the Law. *Whitehall*, Jan. 11.

A Proclamation for reſtraint of killing, dreſſing, and eating of Fleſh in *Lent*, or on Fiſh days, appointed by the Law to be hereafter ſtrictly obſerved by all ſorts of People. *Whitehall*, Jan. 14.

A Proclamation to declare his Majeſties Pleaſure touching his Royal Coronation, and the ſolemnity thereof. *Whitehall*, Jan. 17.

A Proclamation for a general and publick Thankſgiving to Almighty God for his great mercy in ſtaying his hand, and aſſwaging the late fearful Viſitation of the Plague. *Whitehall*, Jan. 22.

Titles

An. 1629.

Titles of PROCLAMATIONS, &c.

Pro Anno 1626.

Whitehall, April 24. A Proclamation for the better furniſhing of the Navy, and increaſe of Shipping.

Whitehall, May 26. A Proclamation for Fee Decree.

Whitehall, June 14. A Proclamation for the eſtabliſhing of the Peace and Quiet of the Church of *England*.

Palace of *Weſtminſter*, June 16. A Proclamation prohibiting the publiſhing, diſperſing, and reading of a Declaration or Remonſtrance drawn by ſome Committees of the Commons Houſe of the late diſſolved Parliament, and intended to have bin preferred by them to his Majeſty.

Whitehall, June 18. A Proclamation touching Mariners.

Whitehall, June 18. A Proclamation for the better ordering of thoſe who repair to the Court for their Cure of the Diſeaſe called the *King's Evil*.

Whitehall, June 30. A Proclamation for a General Faſt throughout this Realm of *England*.

Whitehall, July 10. A Proclamation commanding all Inhabitants on the Sea Coaſts, or in any Ports or Sea Towns, to make their ſpeedy repair unto, and continue at the places of their Habitations there, during theſe Times of danger.

Whitehall, July 24. A Proclamation touching the currency of certain *French* Coin.

Noneſuch, Auguſt 13. A Proclamation to declare and publiſh his Majeſties Reſolution, to aſcertain his Revenue by granting his Lands holden, as well by Copie as otherwiſe in Fee Farm.

Whitehall, Auguſt 27. A Proclamation for all Captains, Maſters and Officers of Ships, and Mariners, which are to ſerve in the King's Fleet, to make their preſent repair to *Portſmouth*.

Palace of *Weſtminſter*, Septemb. 4. *Hampton-Court*, Sept. 22. *By the King*. A Declaration concerning Gold and Silver Coins.

A Declaration concerning the return of Monies to be emploied in the defence of the Realm, *&c.*

Whitehall, Octob. 7. A Proclamation for the reſtraint of the diſorderly repair of Mariners and Souldiers unto the King's Court, or City of *London*.

Whitehall, Octob. 7. A Declaration of his Majeſties clear intention in requiring the Aid of his loving Subjects, in that way of Loans which is now intended by his Highneſs.

5 *Caroli.*

A Proclamation commanding the repair of Noble-men, Knights, and Gentlemen of Quality unto their Manſion-Houſes in the Country, there to attend their Services and keep hoſpitality. *Whitehall*, Nov. 23.

A Proclamation to reſtrain the unlawful tranſportation of Hides and Leather. *Whitehall*, Decemb. 14.

A Proclamation for the better making of Salt-Peter in this Kingdom. *Whitehall*, Jan. 2.

A Proclamation, that all Captains, Lievtenants, and other Officers, ſhall repair to their Companies, and that all Souldiers ſhall repair to their Colours. *Whitehall*, Jan. 29.

A Proclamation for reſtraint of killing, dreſſing, and eating of Fleſh in *Lent*, or on Fiſh-days, appointed by the Law to be here-after obſerved by all ſorts of People. *Hampton-Court*, Jan. 25.

A Proclamation touching Tobacco. *Whitehall*, Feb. 17.

A Proclamation to prevent the furniſhing of the King of *Spain* and his Subjects with Proviſions for Shipping, or Munition for the Wars, and with Victuals. *New-market*, March 4.

A Proclamation for the apprehenſion of *John Holland* and *Robert Blow* Gentlemen, late Servants to the Earl of *Lincoln*. *Whitehall*, March 21.

Titles of PROCLAMATIONS, *&c.*

Pro Anno 1627.

A Proclamation prohibiting the Importation of any Goods or Merchandize whatſoever in any *French* Ships or Bottoms. *Whitehall*, April 28.

A Proclamation for the explaining of a former Proclamation lately publiſhed, intituted, A Proclamation prohibiting the Importation of any Goods or Merchandize whatſoever in any *French* Ships or Bottoms. *Whitehall*, May 12.

A Proclamation for the better execution of the Office of his Majeſties Exchange, and Reformation of ſundry Abuſes and Frauds practiſed upon his Majeſties Coins. *Whitehall*, May 25.

Together with the Articles, which by virtue of the Proclamation hereunto annexed, We will and command ſhall be duly obſerved.

A Proclamation againſt unjuſt pretences for colouring of *French* Goods, taken by way of Reprize. *Whitehall*, June 25.

A Proclamation for the maintaining and encreaſe of the Mines of Salt-Peter, and the true making and working of Salt-Peter and Gunpowder, and reforming of all abuſes concerning the ſame. *Ampthell*, July 23.

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A Proclamation for the Ordering of Tobacco.

Court at *Windſor* Aug. 9

A Proclamation for the Tranſportation of any kind of Corn, Grain, or Victuals for the ſupply of the Navy or Army in the parts of *France.*

Caſtle at *Windſor*, Auguſt 10.

Bagſhot, Auguſt 18.

A Proclamation for the Tranſportation of any kind of Corn, Grain, or Victuals, for the ſupply of the Navy, or Army, in the parts of *France.*

Whitehall, Octob. 12.

A Proclamation declaring his Majeſties gracious intention concerning his Commiſſion lately granted, to enquire of new Offices erected, and new Fees erected in Courts of Juſtice ſince 11 *Elizabeth.*

Whitehall, Novemb. 20.

A Proclamation prohibiting the uſe of Snaffles, and commanding the uſe of Bits for riding.

Whitehall, Novemb. 28.

A Proclamation commanding the repair of Noble-men, Knights, and Gentlemen of Quality, unto their Manſion-Houſes in the Country, there to attend their Services, and keep Hoſpitalities.

Whitehall, Novemb. 30.

A Proclamation, That all Captains, Lievtenants, and other Officers, ſhall repair to their Companies, and that all Souldiers ſhall repair to their Colours.

Whitehall, Dec. 8.

A Proclamation to prevent the purloining and ſtealing of Arms, Powder, and other Munition and Habiliments of War.

Whitehall, Jan. 25.

A Proclamation for all Souldiers to repair to their Companies.

Whitehall, Feb. 4.

A Proclamation for reſtraint of killing, dreſſing, and eating of Fleſh in *Lent*, or on Fiſh-days, appointed by the Law to be hereafter ſtrictly obſerved by all ſorts of people.

Whitehall, Feb. 10.

A Proclamation againſt the unneceſſary waſte of Gun-powder.

Whitehall, Feb. 10.

A Proclamation concerning Buildings and Inmates within the City of *London*, and confines of the ſame.

Whitehall, Feb. 15.

A Proclamation for the better encouragement and advancement of the Trade of the *Eaſt-India* Company.

Whitehall, Feb. 16.

A Proclamation for the Execution of the Statutes made againſt Rogues and Vagabonds.

Whitehall, Feb. 16.

A Proclamation declaring the King's Royal pleaſure for the aſſembling of the Parliament.

Whitehall, Feb. 17.

A Proclamation for the repreſſing of Diſorders of Mariners.

Whitehall, March 9.

A Proclamation prohibiting the buying and ſelling of any of his Majeſties Arms of Munition, and to reform the abuſes committed at Muſters and Trainings, by borrowing of Arms.

Titles of PROCLAMATIONS, &c.

Pro Anno 1628.

A Proclamation for the better ordering of thoſe who repair to the Court, for their Cure of the Diſeaſe, called the *King's Evil.* — *Whitehall*, June 17.

A Proclamation for the calling in, and ſuppreſſing of two Sermons, Preached and Printed by *Roger Mainwaring* Dr. in Divinity, Entituled *Religion* and *Allegiance.* — *Whitehall*, June 20.

A Proclamation directing how Priſoners ſhall be ordered, which are taken at Sea by Men of War. — *Portſmouth*, July 23.

A Proclamation declaring his Majeſties Royal Pleaſure and Command, for putting the Laws and Statutes made againſt Jeſuits, Prieſts, and Popiſh Recuſants in due Execution. — *Southwick*, Aug. 3.

A Proclamation, for the further Proroguing of the Parliament. — *Hampton-Court*, Octob. 1.

A Proclamation Prohibiting the Tranſportation of any Corn, Grain, Victuals, Ordnance, Arms or Munition for War into the Kingdom of *France.* — *Whitehall*, Octob. 15.

A Proclamation declaring the King's Majeſties Royal Pleaſure touching the Inhabitants of *Algier*, *Tunis*, *Sally* and *Tituan*, in the parts of *Africa.* — *Whitehall*, Octob. 22.

A Proclamation declaring his Majeſties Royal Pleaſure, touching the *Engliſh* Soldiers, late employed at Sea in his Service, and now diſcharged. — *Whitehall*, Novemb. 15.

A Proclamation declaring his Majeſties Royal Grace and Pleaſure, to confirm to his Subjects their defective Titles, Eſtates and Poſſeſſions (as well by colour of former Grants, as without any Grant from the Crown) by his Commiſſion granted to that purpoſe. — *Whitehall*, Decemb. 6.

An Abſtract of the ſeveral Heads and Branches of his Majeſties Commiſſion of Grace for the ſecuring, ſetling and confirming to his Subjects their defective Titles, Eſtates and Poſſeſſions, by which his Majeſties Commiſſioners have power to compound.

A Proclamation for the Apprehenſion of *Richard Smith*, a Popiſh Prieſt, ſtiled and calling himſelf the Biſhop of *Calcedon.* — *Whitehall*, Decemb. 11.

A Proclamation for the ſuppreſſing of a Book entituled *Appello Cæſarum*, or an Appeal to *Cæſar.* — *Whitehall*, Jan. 17.

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Whitehall, Jan. 22. A Proclamation for reſtraint of killing, dreſſing and eating of Fleſh in *Lent*, or on Fiſh-days, appointed by the Law, to be hereafter ſtrictly obſerved by all ſorts of People.

Whitehall, Feb. 7. A Proclamation for reſtraint of killing, dreſſing and eating of Fleſh in *Lent*, or on Fiſh-days appointed by the Law to be hereafter obſerved by all ſorts of People.

Whitehall, Feb. 14. A Proclamation for a general Faſt to be held throughout this Realm of *England*.

Whitehall, March 2. A Proclamation about diſſolving of the Parliament.

Whitehall, March 11. An Order of the Lords of the Council, concerning the payment of his Majeſties Army employed to *Cadiz*, and for caſting up of the Accounts by the Auditors of the Impreſt, to the end that all Officers and Soldiers may be duly paid.

Whitehall, March 24. A ſecond Proclamation for the Apprehenſion of *Richard Smith* a Popiſh Prieſt, ſtiled and calling himſelf the Biſhop of *Calcedon*.

Titles of PROCLAMATIONS, &c.

Pro Anno 1629.

By the KING.

Whitehall, March 27. A Proclamation for ſuppreſſing of falſe Rumors, touching Parliaments.

A Proclamation for the Apprehenſion of *Walter Long* Eſquire, and *William Strode* Gentleman.

Whitehall, March 25. A Proclamation for a General Faſt to be ſolemnized throughout this Realm.

Greenwich, May 2. A Proclamation prohibiting the Exportation of Corn and Grain.

Greenwich, May 10. A Declaration of Peace with *France*.

Greenwich, May 17. A Proclamation Commanding the due Execution of the Laws, made for ſetting the Poor on work.

Greenwich, May 17. A Proclamation for the ſpeedy ſending away of the *Iriſh Beggars* out of this Kingdom, into their own Country; and for the ſuppreſſing and ordering of the *Engliſh* Rogues and Vagabonds according to the Laws.

5 *Caroli.*

A Proclamation for the better ordering of thoſe who repair to the Court for the Cure of the Diſeaſe called the *Kings Evil.* *Greenwich*, June 28.

A Proclamation concerning the making of *Starch*, and avoiding the annoyance thereby. *Greenwich*, June 30.

A Proclamation touching the Importation of *French Wines.* *Nonſuch*, July 7.

A Proclamation againſt ſelling of Ships. *Nonſuch*, July 12.

A Proclamation for the better Diſcovery and Apprehenſion of thoſe Malefactors, who were Actors in the late inſolent Riots and Murders committed in *Fleet-ſtreet*, *London*, upon *Friday* the 10*th* day of this inſtant Month of *July.* *Whitehall*, July 18.

A Proclamation for the preventing the decays of *Churches* and *Chappels* for the time to come. *Hampton-Court*, Octob. 11.

A Proclamation recommending to all Magiſtrates to give Paſſage to ſuch *Engliſh* and *Scottiſh Soldiers*, as the King hath called out of the Service of the States General, until the King ſhall have occaſion to call them to his Service. And that they be treated in their reſpective Countries with all charitable reſpect due to Men, who have faithfully ſerved the Allies of their Princes. *Weſtminſter*, Decemb. 27.

A Proclamation for the reſtraint of killing, dreſſing and eating of Fleſh in *Lent*, or on Fiſh days, appointed by the Law to be hereafter obſerved by all ſorts of People. *Whitehall*, Jan. 18.

That which followeth in order of time after the beforementioned Proclamation, is a Grant from King *Charles* under the Privy Seal, dated the 14*th* of *March* 2*d. Car.* of the Lights of *Dungeneſs* upon the Coaſt of *Kent.* And that there ſhall be collected of every Ship, Hoy and Bark that ſhall paſs that way, one penny upon every Tun, outwards and homewards bound, to the encouraging of which Grants, divers Sea-faring Men and Merchants have ſubſcribed their conſent. *Weſtminſter*, March 14.

The next thing Collected in Order of time after the Grant beforementioned, is a Paper, entituled *Inſtructions for the Clergy.*

The next which follows is his Majeſties Letters Patents under the Great Seal of *England*, for a Collection to be made for the poor *Exiled Miniſters* and their Wives and Children, being ſpoiled of all their Temporal Eſtates, and expoſed to unexpreſſible Miſeries, whoſe Cauſes are the more to be deplored for that extremity is fallen upon them for their Sincerity and Conſtancy in the true Religion. *Weſtminſter*, March 16.

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Whitehall, March 7. A Proclamation, reviving and enlarging a former Proclamation made in the Reign of King *James*, Prohibiting the bringing in of any Commodities traded by the *Eastland Merchants* into this Kingdom, as well by Subjects as Strangers not free of that Company, with a Publication of certain Statutes for the restraint of all his Majesties Subjects from shipping any Commodities in Stranger Bottoms, either into, or out of this Kingdom.

Whitehall, March 9. A Proclamation for the restraint of excessive Carriages to the destruction of the High-ways.

Historical

Hiſtorical Collections

For the Year 1630.

WE begin this Year in order of Time, with a Letter dated the firſt of *April*, written from the Biſhop of *Kelmore* in *Ireland*, to the Biſhop of *London*, to this effect.

Biſhop of *Kelmore*'s Letter to the Biſhop of *London*, of the increaſe of Popery in *Ireland*, and of the decay of Churches.

I *Have bin* (ſaith he) *about my* Dioceſs, *and can ſet down, out of my knowledg and view, what I ſhall relate; and ſhortly to ſpeak much ill matter in a few words. It is very miſerable every way; The Cathedral of* Ardagh, *(one of the moſt ancient in* Ireland, *and ſaid to be built by St.* Patrick) *together with the Biſhop's* Houſe *there, are down to the Ground: The Church here built, but without* Bell *or* Steeple, Font *or* Calice. *The Pariſh Churches all in a manner ruined, unroofed and unrepaired. The People, ſaving a few britiſh Planters here and there (which are not the tenth part of the Remnant) obſtinate Recuſants; a Popiſh Clergie more numerous by far than we, and in the full exerciſe of all Juriſdiction Eccleſiaſtical by their* Vicars General, *and* Officials, *who are ſo confident, as they Excommunicate thoſe that come to our Court, even in Matrimonial Cauſes; which affront hath bin offered my ſelf by the Popiſh-Primate's* Vicar-General: *for which I have begun a Proceſs againſt him. The* Primate *himſelf lives in my Pariſh, within two miles of my Houſe: The Biſhop in another part of my* Dioceſs *farther off; every Pariſh hath his* Prieſt, *and ſome two or three a piece, and ſo their Maſs-Houſes: Alſo in ſome places Maſs is ſaid in the Churches.* Friars *there are in divers places, who go about, though not in their Habits; and by their importunate begging, impoveriſh the People, who indeed are generally very poor.*

On the ſixth day of *April*, his Majeſty cauſed to be publiſhed this Proclamation for the better ordering of thoſe who repair to the Court for the Cure of the Diſeaſe called the *King's-Evil.*

Concerning the cure of the Diſeaſe called the *King's-Evil.*

'WHereas by the Grace and Bleſſing of God, the *Kings* and '*Queens* of this Realm, for many Ages paſt, have had the 'happineſs, by their ſacred Touch, and Invocation of the Name of 'God, to cure thoſe who are afflicted with the Diſeaſe called the '*King's Evil:* And his now moſt Excellent *Majeſty*, in no leſs meaſure 'than any of his Royal Predeceſſors, hath had good ſucceſs herein; 'and in his moſt gracious and pious diſpoſition is as ready and willing 'as any *King* or *Queen* of this Realm ever was, in any thing to re- 'lieve the diſtreſſes and neceſſities of his good Subjects; yet in his 'Princely Wiſdom, foreſeeing that in this, as in all other things, Order 'is to be obſerved, and fit Times are neceſſary to be appointed for 'the performing of this great work of Charity: His moſt excellent '*Majeſty* doth hereby publiſh and declare his *Royal Will* and *Pleaſure* 'to be; That whereas heretofore the uſual times of preſenting ſuch

'perſons

An. 1630. 'Perſons to his *Majeſty* for this purpoſe were *Eaſter* and *Whitſontide*; 'that from henceforth the times ſhall be *Eaſter* and *Michaelmaſs*, as 'times more convenient both for the temperature of the Seaſon, and 'in reſpect of any Contagion, which may happen in this near acceſs 'to his *Majeſties* Sacred Perſon; and his *Majeſty* doth accordingly 'will and command, That from the time of publiſhing this Proclama-'tion, none preſume to repair to his Majeſties *Royal Court*, to be healed 'of that Diſeaſe before the Feaſt of St. *Michael* now next coming.

The Form of Divine Service uſed at the time of this Solemn Ceremony, was as followeth.

The Goſpel was read written in the *16th* of St. *Mark*,
Jeſus appeared unto the Eleven, &c.
And the Goſpel written in the firſt of St. *John*,
In the beginning was the Word, &c.
And as often as the King putteth the *Angel* about their Necks, repeat theſe words,
That Light was the true Light, which lighteth every Man into the World.
After this the Lord's Prayer is ſaid; and another Prayer on the behalf of the Diſeaſed, that they receiving Health, may give thanks to God, *&c.*

William Earl of *Pembrook* on the *10th* of *April* departed this Life; he was the third Earl from his Creation, Lord Warden of the *Stanneries*, Governour of *Portſmouth*, Knight of the Garter, Lord High-Steward of the King's Houſhold, and Chancellor of the Univerſity of *Oxford*; He ſupt the night before his Death with the Counteſs of *Bedford* at *Biſhops-gate*, upon the day of his Birth, being then of the Age of ſeventy Years; he went home from thence to *Bainard's Caſtle*, admiring his Health, and ſaid, He would never truſt a Woman Propheteſs for the Lady *Daves* ſake; who told him, He ſhould die that day of his Birth. He went to Bed very well, but died of an *Apoplexy* before eight in the morning. He was told of the time of his Death long before it happened by the ſaid Lady. Which Lady often ſaid to a greater Perſon than this Earl, That great misfortune would befal him, for which ſhe was ſome time impriſoned.

This Earl died without Heir, and his Honour deſcended to *Philip Herbert* his Brother, Earl of *Pembrok* and *Montgomery*.

The news of his Death came ſpeedily to the knowledg of the Univerſity of *Oxford*, who two days after choſe the Biſhop of *London* Chancellor; and the Univerſity ſhortly after came up to the Ceremony, and gave the Biſhop his Oath.

The timely conformity of the Miniſters of *York* to the Regal Injunctions.

The Miniſters of the City of *York* having given proof of their Obedience, in obſerving the late Inſtructions for the Clergy, did on the *24th* of *May* make an Addreſs to the Arch-Biſhop of that Province, and to the Lord Preſident of the North, for a more ample allowance.

This Cauſe was preferred to the Lords of the Privy-Council, who were pleaſed to take notice thereof; and for the encouragement of their Endeavours, as being fruitful in part already, and giving hope

of

of more Fruit by Catechiſing, and other Divine Exerciſes, thought fit that an Addition ſhould be made to their Yearly Maintenance, not exceeding *Twenty four Pounds* by the Year.

And they conſidered a courſe that had bin held in the like Caſes in the City of *London* and *Norwich*, and other Places, which might ſerve for Precedents. And ſeeing by Order from the Board, there was an allowance of one *penny* in a *ſhilling* to be paid, according to the yearly Rent of Houſes in *Norwich*, granted to the Miniſters, and that willingly by the moſt, very few refuſing, they concluded upon ſuch a courſe to be uſed in *York*, though not exactly reſtrain'd to that proportion.

An Order of Council for increaſe of Maintenance for them.

Wherefore they directed a Letter to the Lord Arch-Biſhop of *York*, the Lord Preſident of the North, and the Lord Mayor of *York*, and ſix of the ancienteſt Aldermen of that City, to enter into a ſerious conſideration, how the Wants of theſe Miniſters might be ſupplied, by levying an indifferent and competent Sum out of every Man's Houſe-Rent as might not be burthenſom; but ſo augmenting their allowance, as to enable and encourage them to proceed in that laudable courſe which they had begun.

The Lords of the Privy Council, in order to bring in more Revenue to the Crown, adviſed the King to put forth a Proclamation, declaring his pleaſure to confirm to his Subjects their Defective Titles, Eſtates and Poſſeſſions, (as well by colour of former Grants, as without any Grant from the Crown); to which purpoſe a Commiſſion was lately renewed and granted; which Proclamation bore date *May* 27, to this effect.

Defective Titles.

'WHereas the King's moſt excellent Majeſty, in his gracious Favour towards his Loving Subjects, did not only renue his Com-'miſſion of Grace, but alſo by his Proclamation given at *Whitehall*, 'dated the *6th* day of *December*, in the fourth Year of his Reign, did 'declare, That in his gracious intention towards his ſaid Subjects, he 'had authorized the Lords, and others of his Privy-Council, and 'others of his Judges, and Counſel learned, by his ſaid Commiſſion, to 'ſell, grant, and confirm to ſuch of his Subjects, whom it might con-'cern, their *Defective Titles to their Eſtates and Poſſeſſions*, in ſuch 'Manours and Lands which they did enjoy; not only under colour of 'ſome Defective Titles, void or inſufficient Grants, or by Letters Pa-'tents of Concealments, but alſo for thoſe Manours and Lands 'which they did poſſeſs, meerly by Intruſion and Uſurpation, with-'out any colour of Right and Title, they never having had any 'Grants thereof at all, either from his Majeſty, or any of his Prede-'ceſſors; and yet their ſaid Eſtates and Poſſeſſions are not ſetled by 'Act of Parliament, made in the one and twentieth Year of the Reign 'of his Dear and Royal Father King *James*, of bleſſed Memory, late-'ly deceaſed, entituled, *An Act for the general Quiet of the Subjects 'againſt all pretences of Concealment*; conceiving that the ſaid Subjects 'would have bin as forward to have embraced his ſaid intended Grace 'towards them, for their own good and relief, as he was graciouſly 'pleaſed to offer it unto them. But his Majeſty finding the contrary, 'and the ſame wholly to be neglected, might now in Juſtice and Rea-'ſon, reduce to the Crown all ſuch other Manours and Lands whereto

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'his Highneſs hath Right and Title, and which were not ſetled by the 'ſaid Act to the increaſe of his Revenue. But his Majeſty not being 'willing to conſtrue this in the worſt ſence, and having nothing more 'in his Princely deſire than the general Good of his Subjects, prefer- 'ring their Peace and Quiet before his own Benefit, hath once more 'not only renewed, but alſo for the greater relief of his ſaid Subjects, 'enlarged his ſaid Commiſſion of Grace, to ſundry his ſaid Lords and 'others of his Privy-Council, Judges, and Counſel learned, giving 'them the like Authority to compound with ſuch of his Loving Sub- 'jects, whom it may concern, and ſhall ſeek compoſition at their hands 'for any of the Manours, Lands, Tenements, and other the Here- 'ditaments of the ſeveral Natures and Qualities contained and expreſ- 'ſed in the Schedule, which his Majeſty hath cauſed hereunto to be 'annexed, whereby each one, whom it concerneth, may take know- 'ledg, for what and how he may be relieved by the ſaid Commiſſion, 'if in time and by a due courſe he ſhall ſeek the ſame.

'But his Majeſty doth further declare his Royal Pleaſure by his 'publick Declaration to be, That if thoſe whom it may concern, 'ſhall not by or before the Feaſt of *All Saints* next, attend his Maje- 'ſties Commiſſioners for ſuch moderate and reaſonable Compoſitions 'as ſhall be found fit and equal for them, for or concerning any of 'the ſaid Premiſes ſo by them intruded upon, and unjuſtly detained 'from his Majeſty, that his Majeſty will not in prejudice of his juſt 'Title and Revenue, defer his own Benefit any longer, but either 'take a legal courſe for the reducing of ſuch Manours and Lands, 'and other the Premiſes (of ſuch Perſon and Perſons as ſhall any lon- 'ger neglect his gracious Offer) to the encreaſe of his Revenue; or 'otherwiſe grant the ſame over unto ſuch others, as ſhall be Suitors to 'him for the ſame.

'And his Majeſty the better to be informed who imbraceth this his 'Royal Grace, and who neglecteth the ſame, hath appointed and 'commanded *Robert Tipper* of *Grays Inn* his Majeſties Servant, to at- 'tend his Majeſties Commiſſioners, as in former times he hath done, 'who is to acquaint his Majeſties ſaid Commiſſioners with the ſtate of 'the ſeveral Caſes of thoſe that ſhall ſeek a Compoſition as aforeſaid, 'and who do accept this his Majeſties Grace, and who not; where- 'upon ſuch further Proceeding may be had according to their ſaid ſe- 'veral Neglects, as his Majeſty in his wiſdom ſhall think fitteſt.

Inſtructions were alſo given by the King to the ſaid Commiſſioners, how to proceed and make Compoſition with ſuch Perſons as ſhould make ſuit for the ſame; which ſee at large in the Appendix.

Prince *Charles* born.

On the 29*th* of *May* Prince *Charles* was born, a little before one of the Clock in the Afternoon; and the Biſhop of *London* had the honour to ſee him before he was an hour old. At his Birth there appear'd a Star viſible that very time of the day, when the King rode to St. *Paul*'s Church to give thanks to God for the Queen's ſafe delivery of a Son. But this Star then appearing, *ſome ſay was the Planet *Venus*; others *Mercury*, the Sign of *Merlin*'s Prophecy. *The ſplendor of the Sun ſhall languiſh by the paleneſs of* Mercury, *and it ſhall be dreadful to the Beholders. Any Planet* (ſays the Aſtrologer) *within its degrees of the Sun is very unfortunate*; *and* Mercury *being the Lord of the Aſcendent*,

* *W. Sanderſon*, Reign of King *Charles*. pag. 147.

cendent and Mid-heaven, was a chief Significator of the Prince his Person, who being afflicted by the presence of the Sun, yet miraculously God did by his power make this Star shine bright in a clear Sun-shine day, which was contrary to Nature. This much out of the Reign of King Charles, *from his Birth to his Grave. Page* 141. Besides, the Author of this second Part, was present at this appearance of the Star at that time, when the King and his Nobles rid on Horseback to St. *Pauls.* 6 *Caroli.*

The next day being the 30*th* of *May*, the King writ a Letter to the Bishop of *London*, under the *Privy Signet*, to give him publick notice of the Prince's Birth.

CHARLES REX.

Right Reverend Father in God, Right Trusty and Wellbeloved Counsellor, We Greet you well. Whereas it hath pleased God of his infinite Grace and Goodness to vouchsafe unto us a Son born at our Manour *of St.* James, *the* 29th *day of this present Month of* May, *to the great comfort not only of our selves in particular, but to the general Joy and Contentment of our Loving Subjects, as being a principal means for the establishment of the prosperous estate and Peace of this and other our Kingdoms, whose Welfare We do and will ever prefer before any other earthly Blessing that can befall us in this Life. We therefore according to the laudable Custom of our* Royal Progenitors *in like case heretofore used, have thought fit to make known unto you these glad tidings, being well assured that with all dutiful and loving Affection you will imbrace whatsoever may make for the prosperous advancement of the publick Good.* The King's Letter to the Bishop of *London* concerning the Birth of the Prince.

On the said 29*th* of *May*, a great Cause was brought to hearing in the *Star-Chamber*, concerning a Discourse, entituled, *a Proposition for his Majesties Service to bridle the Impertinency of Parliaments.* Wherein the King's Attorney General was *Plantiff*, the Earl of *Bedford*, the Earl of *Clare*, the Earl of *Somerset*, Sir *Robert Cotton*, *John Selden*, *Oliver St. John*, and others Defendents: which Information we have inserted at large in the *Appendix* to the first part of *Historical Collections*; here now followeth the *Answers* of the Defendents, and the *Judgment* of the Court thereupon, *viz.*

Aftet the King's *Attorney General* opened the aformentioned Information: The Answer of *Robert* Earl of *Somerset* to the said Information, was also opened by his *Council*, to this effect: The Earl of *Somerset*'s Answer.

That the Discourse, as he believed, was either the same that was shewed him in the time of his Attendance near his late Majesty King *James*, or had many of the same things in it: And finding no cause of concealing a *Proposition* made in a former King's time, and having no Apprehension, that Scandal to his Majesty, or the present Government, might thereby happen, he casually imparted it to the Earls of *Bedford* and *Clare*, who after perusal thereof, delivered their Opinion concerning it, at their next meeting; 'That it was a phantastick Project of 'some brain-sick Travellor, who had made Collections of some Princes 'in *Italy*, and other Foraign States, no way suitable to the Govern-'ment of this Kingdom. The Cause against the Earl of *Somerset*, &c. brought to Hearing.

An. 1630.

And further ſaid, that (beſides that one time) there was never any Conference, nor any paſſage by Letter or otherwiſe, betwixt them concerning it, or with any other Perſon, and denied that he either contrived the *Propoſition*, or knew of the contriving thereof, or ever imagined that his Majeſty would innovate the ancient Form of Government, diſpoſe of the Eſtates of his Subjects without their Conſents, make or repeal Laws by Proclamation without conſent of Parliament, plant Garriſons in his principal Cities and Towns, or put in execution any part of the ſaid Diſcourſe: And the reaſon why he did not preſent the Diſcourſe to his Majeſty, or ſome of the Lords of the Council, or ſome Magiſtrate, was, becauſe he did not conceive the ſame did in any ſort concern the time of his Majeſties Government, but was contrived in ſome former time, as appeared manifeſtly, by the particulars therein contained; and that about 16, or 17 years ago, Sir *David Fowles* ſhewed him the Project, to whom he replied, 'That he was ſatisfied 'no uſe could be made thereof, and ſo he redelivered it, and concluded that the divulging thereof, was in his opinion pardoned by the 'general Pardon granted upon his now Majeſties Coronation.

The Anſwer of the reſt of the Defendents.

The reſt of the Defendents denied any their contrivance thereof, alledging the Author (as they were informed) was living beyond Sea, and that they ought not to be queſtioned for it, being writ in the time of King *James*, and not in reference to his now Majeſties Government, denying that they had the leaſt thought or intention to ſcandalize the Government; for that they rejected the Diſcourſe as ſoon as they read it, as a fooliſh & impertinent iſſue of ſome projecting Brain; and they averred their deteſtation of ſuch a Project, and that they bore Loyal Hearts to his Majeſty, and bleſſed God for the happy and peaceable Government under him.

Sir *David Fowlis* his Examination.

After the Publication of the Cauſe in order to a Hearing, it appeared by the Depoſitions of Sir *David Fowlis*, that he received the ſaid Writing from one Mr. *Yates*, in the time of King *James*, who brought it from Sir *Robert Dudly* at *Florence*, together with a Letter, deſiring him to deliver it to the Earl of *Somerſet*, that he might communicate it to King *James*, which was done accordingly, and that in his hearing the Earl ſignified a diſlike thereof. And that he received it back from the Earl (being the Original) and kept it by him till the Lords of the *Council* ſent for it, and that he made no Copy thereof.

It appeared alſo by the Depoſitions of other Witneſſes, that this Diſcourſe *nine years* ago, was bought by them in *Little Britain* amongſt other *Manuſcripts*.

The Court enters upon the Hearing of the Cauſe.

So this Cauſe coming to Hearing, a great preſence of Nobility being in Court, the Attorney General opened the Charge. But before much proceeding, his Majeſty ſent word unto the Lord *Keeper Coventry*, then in Court, that the *Queen* was brought to Bed of a *Son*, and a private Meſſage alſo was delivered to him from the King; whereupon the

The Lord *Keeper* declares the King's Pleaſure as to this Cauſe.

L. *Keeper* declared in Court, that His moſt Sacred Majeſty had taken this matter into his moſt ſerious Conſideration, and although the ſame was of ſo High a Nature, as it was neceſſary to be brought in queſtion, (being contrary to many Laws and Statutes, and the common Law it ſelf,) yet his Majeſty ballancing the ſame in the Scales of Juſtice and Mercy (the Author of the Diſcourſe being diſcovered to live beyond the Seas) found theſe Defendents rather fitting to be Objects of his Mercy, than Juſtice, they being ſome of them *Noblemen*, and ſuch as

His

his Majeſty did and doth well eſteem and like of, in his Royal Opinion. 6 *Caroli.*

And that his Majeſty was the rather inclined to extend his goodneſs, in regard of the time; It having now pleaſed the great Juſtice of Heaven to bleſs his Majeſty and his Kingdom with a *Royal Iſſue* of his Body, a hopeful *Prince*, the great joy and long expectation both of King and Kingdom.

Upon this Declaration of the King's pleaſure, the Lord *Keeper* made known, that the Court by his Majeſties ſpecial Command was to proceed no further in the hearing of this Cauſe: But ordered the *Project*, or *Book*, to be burnt, as ſeditious and ſcandalous both to his Majeſty, the State and Government of this Kingdom. And ordered the Proceedings to be taken off the File. No further Proceedings to be againſt the Defendents.

Two days after the birth of the *Prince Guſtavus Adolphus* King of *Sweden* on the 31 of *May*, ſigned the Articles agreed unto between that *King* and the Marqueſs of *Hamilton*, about the bringing of an Army of 6000 Men into *Germany*, for the Aſſiſtance of the King of *Sweden*, and in order to the relief of the *Palatinate*. Articles agreed unto by the King of *Sweden*.

'WEE *Guſtavus Adolphus* by the Grace of God King of the 'Swedes, *Goths*, and *Vandals*, Great Prince of *Finland*, 'Duke of *Eſthone* and *Carel*, and Lord of *Ingria*, &c. To all and ſundry 'whom it concerns, make it known and certain, That whereas the Il-'luſtrious and our ſincerely beloved Lord *James Marqueſs of Hamilton*, 'Maſter of the Horſe to the moſt Serene King of *Great Britain*, out of 'his Zeal for the publick Good, and for acquiring eternal Fame, hath re-'ſolved, *to dedicate himſelf*, and the Fortunes and Forces of all he is con-'cerned in *for reſtoring our oppreſſed Friends in Germany*; and for that 'end hath offered to us by the Illuſtrious and our ſincerely faithful *Co-'lonel Alexander Hamilton*, his Fidelity and Service; and that he will 'on his own expence gather a ſtrength of *ſix thouſand Men*, and bring 'them over as ſoon as may be, to any place we ſhall appoint, either '*againſt the Imperialiſts*, or any other of our Enemies, and *maintain them* '*on his own Charge*, and do us all faithful and vigorous Service with 'them, *till this great Affair be brought to a good iſſue*; Provided we ſhall 'authorize this his Deſign with our Protection, and give him the '*under written Aſſiſtance:* Therefore there being nothing dearer to 'Us than to make all vigorous reſiſtance to the common Enemies of '*Liberty*, and having in high eſtimation the brave Undertakings of 'Generous Men, we not only would not reject, but have heartily em-'braced the nobleneſs of ſo good Reſolutions: We have therefore ad-'mitted, like as by the vigour of theſe Preſents, *We admit the ſaid Lord* '*Marqueſs in our Service, Armies, and Military Councils*, on *the following* '*Conditions.* The Condition of Agreement between the King of *Sweden* and Marqueſs *Hamilton*.

1. 'Whenever he ſhall ſignifie to Us that he is ready to bring over 'his Forces, *We ſhall aſſign him a place for his Landing*, either to come 'and *joyn with our Armies*, or to make an Impreſſion elſewhere, as we 'ſhall think fit.

2. 'If we appoint him to Land in any place, from whence he ſhall 'not come ſtraight to us, *We ſhall for ſtrengthening his Forces ſend*, to 'the place we ſhall aſſign for his Landing, *four thouſand Foot* out of 'our Armies, *whom we ſhall furniſh* with all Neceſſaries, and maintain 'on our Charges a whole year.

3. Be-

An. 1630.

3. 'Becauſe the ſaid *Marqueſs* thinks *two thouſand Horſe* are neceſſary for his Foot, for *whoſe Levy and Pay he promiſes all Aſſiſtance*; We 'ſhall therefore think of all ways and means for *raiſing* and *maintaining* 'theſe.

4. '*We not only give the ſaid Illuſtrious Marqueſs* the *Abſolute Command of this Army* in our Abſence, but ſhall alſo *join to him a Counſellor*, with whom he may conſult in all things, that ſo his Deliberations be more expedite and clear.

5. 'Whatever the Illuſtrious Lord *Marqueſs* ſhall *take from* the Enemy; the *Lands and Territories* ſhall belong to *Us*, but the *Revenues* 'and all the Emoluments ſhall go to him, and to the Relief of his Army; 'yet ſo as theſe Revenues ſhall be gathered decently and in order, 'without Depredations or Plunderings: Since Our Deſign is not to 'oppreſs thoſe who have been already enough preſſed, but rather to 'deliver them from the Oppreſſions of others, as much as by the Divine Aſſiſtance we can.

6. 'That the *Marqueſs* may more effectually perform what he hath 'bravely reſolved, and may ſooner make thoſe *Warlike Inſtruments* of 'his *own Invention*, on which he relies much in his Expedition, We 'ſhall not only (with the firſt occaſion) furniſh him with a hundred 'Ship-pounds of *crude Iron*, but ſhall alſo aſſign Hammers for working it according to his Deſign; of which *Inſtruments* he hath promiſed to leave a *Model* with Us, and We ſhall be careful that none of 'our Servants ſhall make uſe of them, before he hath firſt made trial 'of them himſelf.

7. 'We ſhall alſo furniſh him with three hundred and ſeventy Ship-'Pounds of *Iron Ball* for his Guns, and two thouſand five hundred 'Pikes, and as many *Muſquets*.

8. 'Whenever the Marqueſs ſhall advertiſe us of his needing *Gun-'Pouder*, we ſhall aſſign him Bills of Exchange in *Holland* for buying 'ſeventy two Ship-pounds of Gun-pouder.

9. 'If any other Kings or States ſhall concur with us, all they *con-'tribute* ſhall be at *our Deſpoſal*: but if the *Marqueſs* his neceſſities re-'quire further aſſiſtance, We ſhall *not abandon him*, but faithfully aſſiſt 'him as much as our Affairs ſhall permit.

10. 'For all which the ſaid Illuſtirous Lord *Marqueſs* with all his For-'ces hath *promiſed Fidelity* to us, and ſhall be bound to it as well 'as our Men, and thoſe who receive our Pay are; for which both he, 'and all his Captains ſhall be particularly engaged.

'But becauſe there is to be a Treaty betwixt our Commiſſioners 'and the Imperialiſts at *Dantzick*; therefore if a Peace ſhall be there 'concluded, ſo that We ſhall not need the ſervice of the Marqueſs 'and his Army, he hath obliged himſelf to pay for the foreſaid Materials at their entire Value.

'All which things being thus concluded, and to be firmly obſerved 'by Us, *We have ſubſcribed theſe Articles* with our Hand, and command-'ed our Royal Seal to be put to them, at our Caſtle in *Stockholm* the 'laſt of *May*, *Anno Dom.* 1630.

Signed,

Locus Sigilli.

Guſtavus Adolphus.

The

6 *Caroli.*

The *Marqueſs* afterwards ſign'd the Counterpart of theſe Articles, differing only in ſome words of explanation.

Another remarkable Cauſe ſhortly after was heard in the Court of *Star-chamber* againſt *Alexander Leighton, Doctor of Divinity.* The Caſe was thus.

Dr. *Leighton* his Cauſe heard *Jun* 4th

An Information was formerly exhibited in the *Star-chamber* againſt *Alexander Leighton* a *Scotſman* born, and a Doctor of *Divinity*, came to be heard the 4th of *June* in the Court of Star-chamber, for framing a Book, entituled, *An Appeal to the Parliament*, or a *Plea againſt Prelacy*. Which he printed and publiſhed, during the ſitting of the laſt *Parliament*: and delivered it to diverſe Perſons in a way of preſenting juſt Complaints (as he gave out) to the then *Commons Houſe* of Parliament, 4 *Carol.* 1.

Information in the *Star-Chamber* againſt Dr. *Leighton.*

The Defendent was charged by the ſaid Information with framing, publiſhing, and diſperſing a Scandalous Book againſt *King*, *Peers*, and *Prelates*, wherein amongſt other things he ſets forth theſe falſe and ſeditious Aſſertions and Poſitions following.

1. 'That we do not read of greater Perſecution and higher Indig-'nity done upon God's People in any Nation profeſſing the Goſpel, 'than in this our *Iſland*, eſpecially ſince the death of *Queen Elizabeth*.

2. 'He terms the *Prelats* of this Realm *Men of Blood*, and Enemies 'to God and the State, and ſaith, That the maintaining and eſtabliſhing 'of Biſhops within this Realm is a main and maſter-Sin eſtabliſhed by 'Law, and that Miniſters ſhould have no Voices in *Council Deliberative* 'and *Deciſive*.

3. 'He avowed the Prelacy of our Church to be *Antichriſtian* and '*Satanical*, and terms the Biſhops, *Ravens* and *Magpies*, that prey upon 'the State.

4. 'He terms the *Canons* of our Church, made *Anno* 1603, *Non-'ſenſe Canons*.

5. 'He diſallowed and contemned the Ceremony of *Kneeling* in the 'receiving of the Sacrament, alledging that the ſuggeſtion of falſe 'fears to the King by the Prelacy, and the ſeeking of their own un-'lawful ſtanding, brought forth that received Spawn of the *Beaſt*, *kneel-'ing* at the receiving of the Sacrament.

6. 'He affirms that the Prelats did corrupt the King, foreſtalling his 'Judgment againſt God and Goodneſs, and moſt audaciouſly and 'wickedly calleth his Majeſty's Royal Conſort, our gracious *Queen*, the 'Daughter of *Heth*.

7. 'He moſt impiouſly ſeems to commend him that committed the 'barbarous and bloody Act of Murdering the late Duke of *Buckingham*, 'and to encourage others to ſecond him in the like wicked and deſpe-'rate Attempt, to the deſtruction of others.

8. 'He layeth a moſt ſeditious Scandal upon the King, State, and 'Kingdom, wickedly affirming, *that all that paſs by us ſpoil us, and we 'ſpoil all that rely upon us*. And amongſt other particulars, inſtanceth 'the black pining death of the famiſhed *Rochelers*, to the number of '15000 in four *months*: by which Paſſages and wicked Poſitions and 'Aſſertions, he did as much as in him lay, ſcandalize his Majeſties *Sa-'cred Perſon*, his Religious, Wiſe, and Juſt *Government*, the perſon of 'his Royal Conſort the *Queen*, the Perſons of the *Lords* and *Peers* of 'this *Realm*, eſpecially the Reverend *Biſhops*.

9. That

An. 1630. 9. 'That in another place of the ſaid *Book*, endeavouring to ſlander not only his Majeſty's Sacred Perſon and Government, but alſo to 'detract from his Royal Power, in making Laws and Canons for 'Government Eccleſiaſtical; and in matters concerning the Church, 'he ſaith, That the Church hath her Laws from the Scripture, and 'that no King may make Laws in the Houſe of God: for if they might, 'then the Scripture might be imperfect.

10. 'And further charged, that in another place of the ſaid Book, 'thinking to ſalve all with an expreſſion of his Sacred Majeſty, he hath 'theſe words following; *What pity it is, and indelible diſhonour it will 'be to you the States Repreſentative, that ſo ingenuous and tractable a King 'ſhould be ſo monſtrouſly abus'd, to the undoing of himſelf and his Subjects?*

Dr. *Leighton's* Anſwer. The Defendent in his Anſwer confeſſed the writing of the Book, but with no ſuch ill intention, as by the ſaid Information is ſuggeſted; his end therein being only to Remonſtrate certain *Grievances* in Church and State, under which the People ſuffered, to the end the Parliament might take them into conſideration, and ſo give ſuch Redreſs, as might be for the Honour of the King, the Quiet of the People, and the Peace of the Church.

June 4. At the hearing of the Cauſe, the Defendent's Anſwer was read at large, and the aforeſaid Particulars, charged in the Information as Seditious and Scandalous, were alſo read out of the Book. After which the Court proceeded to give Sentence, and did there declare, That it evidently appeared upon Proof, that the Defendent had printed five or ſix hundred of the ſaid *Books*, and that in their opinions he had committed a moſt odious and heinous Offence, deſerving the ſevereſt puniſhment the Court could inflict, for framing and publiſhing a Book ſo full of moſt peſtilent, deviliſh and dangerous Aſſertions, to the ſcandal of the *King*, *Queen* and *Peers*, eſpecially *the Biſhops*.

The two Lord *Chief Juſtices* being preſent, delivered their opinions, that they would without any ſcruple have proceeded againſt the Defendent as for Treaſon committed by him, if it had come before them; and other Lords, expreſsly affirm'd, that it was his Majeſties exceeding great Mercy and Goodneſs, that he was brought to receive the Cenſure of this Court, and not queſtioned at another *Tribunal* as a Traitor.

And their Lordſhips by an Unanimous Conſent adjudged and decreed, that Dr. *Leighton* ſhould be committed to the Priſon of the *Fleet*, there to remain during Life, unleſs his Majeſty ſhall be graciouſly pleaſed to enlarge him; and he ſhall pay a *Fine* of 10000 *l.* to his Majeſty's uſe.

And in reſpect the Defendent hath heretofore entred into the Miniſtry, and this Court for the Reverence of that Calling, doth not uſe to inflict any Corporal or Ignominious Puniſhment upon any perſon, ſo long as they continue in Orders, The Court doth refer him to the High Commiſſion, there to be degraded of his Miniſtry; And that being done he ſhall then alſo for further puniſhment and example to others, be brought into the *Pillory* at *Weſtminſter*, (the Court ſitting) and there Whipped, and after his Whipping be ſet upon the *Pillory* for ſome convenient ſpace, and have one of his Ears cut off, and his Noſe ſlit, and he branded in the Face with a double SS, for a *Sower of Sedition*;

dition; and ſhall then be carried to the Priſon of the *Fleet*, and at ſome other convenient time afterwards ſhall be carried into the *Pillory* at *Cheapſide*, upon a Market-day and be there likewiſe Whipt, and then be ſet upon the *Pillory*, and have his other Ear cut off, and from thence be carried back to the Priſon of the *Fleet*, there to remain during Life, unleſs his Majeſty ſhall be graciouſly pleaſed to inlarge him.

This Sentence being given toward the end of *Trinity Term*, and the Court not uſually ſitting after the Term, unleſs upon emergent occaſions, and it requiring ſome time in the *Eccleſiaſtical Court*, in order to the Degradation of the Defendent, it was *Michaelmas Term* following before any part of the Sentence could be put in Execution; but *November* the 4*th* he was accordingly degraded, and on *Wedneſday November* the 10*th* (being a *Star-Chamber day*) he was to have undergon the Execution of this Sentence; but the evening before he eſcaped out of the *Fleet*, where he had been kept a cloſe Priſoner, and Information hereof being given to the Lords of the Privy Council, they ordered this Hue and Cry to be Printed to retake him.

A Hue and Cry againſt Dr. *Leighton*, by Order of the Privy-Council.

WHereas Alexander Leighton, *a* Scottiſh *Man born, who was lately ſentenced by the Honourable Court of* Star-Chamber, *to pay a great Fine to his Majeſty, and to undergo Corporal Puniſhment, for writing, printing, and publiſhing a very Libellous and Scandalous Book againſt the KING, and his Government; hath this* eleventh day of November *eſcaped out of the Priſon of the* Fleet, *where he was a Priſoner: Theſe are in his Majeſties Name to Require and Command all Juſtices of Peace, Mayors, Sheriffs, Bayliffs, Cuſtomers, Searchers and Officers of the Ports, and all others his Majeſties loving Subjects, to uſe all diligence for the Apprehending of the ſaid* Alexander Leighton; *and being Apprehended, ſafely to keep him in Cuſtody, until his Majeſty ſhall receive Notice thereof, and ſhall give further direction concerning him. He is a Man of low Stature, fair Complexion; he hath a yellowiſh Beard, a high Forehead, between forty and fifty years of Age.*

This *Hue and Cry* followed him into *Bedfordſhire*, where he was Apprehended, and brought again a Priſoner to the *Fleet*. Concerning whoſe Eſcape, and executing of the Sentence upon him afterwards, the Biſhop of *London* in his Diary on the Fourth of *Novemb.* makes this Memorial, *Viz.*

'*Leighton* was degraded at the *High-Commiſſion*, *Tueſday* the 9*th* of '*November*; that night *Leighton* broke out of the *Fleet*, the Warden 'ſays he got or was helped over the Wall, and moreover profeſſed he 'knew not this till *Wedneſday* noon, he told it not me till *Thurſday* 'night. He was taken again in *Bedfordſhire*, and brought back to the '*Fleet*, within a Fortnight. *Friday*, *November* the 16*th*, part of his 'Sentence was executed upon him in this manner, in the New *Palace* 'at *Weſtminſter*, in *Term* time:

1. 'He was ſeverely whipt before he was put in the *Pillory*.
2. 'Being ſet in the *Pillory*, he had one of his Ears cut off.

3. 'One

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3. 'One Side of his Nose slit.

4. 'Branded on one Cheek with a red hot Iron, with the Letters 'S. S. signifying a *Stirrer up of Sedition*, and afterwards carried back 'again Prisoner to the *Fleet*, to be kept in close Custody.

'And on *that day seven night*, his Sores upon his Back, Ear, Nose, 'and Face being not cured, he was whipt again at the *Pillory* in '*Cheap side*, and there had the Remainder of his Sentence executed 'upon him, by cutting off the other Ear, slitting the other Side of the 'Nose, and branding the other Cheek.

The severe Punishment of this unfortunate Gentleman many people pitied, he being a Person well known both for Learning, and other Abilities; only his untempered Zeal (as his Country-men then gave out) prompted him to that Mistake, for which the Necessity of Affairs at that time required this Severity from the hand of the Magistrate, more than perhaps the Crime would do in a following Juncture.

Afterwards those who procured his Escape were taken and brought into the *Star-Chamber*, and proceeded against. *Viz.*

Attor. Regis Ore tenus versus Levingston *& alios.*

The Defendents practising with one *Leighton*, a notable Offender, to procure his Escape out of the *Fleet*; *Levingston* put off his Cloak, Hat and Breeches, being all of a Grey colour, and *Anderson* his Doublet, and *Leighton* put theirs on, and in that disguise they all went out of the *Fleet* unsuspected; but was afterwards taken again, and for these Offences, and respect had of their Penitency, they were only *fined* 500 *l.* apiece, and committed to the *Fleet* during the King's pleasure.

Star-Chamber

A new Office of Receiver.

In *Trinity Term* this *Year* the King wrote Letters to all the Justices and Barons of the *Exchequer*, to consider of Orders for the better execution of the new Office of Receiver and Collector of Fines and Forfeitures, granted to *John Chamberlain* his Majesty's Physician, and to *Edward Brown* Esquire, by King *James*, and confirmed by his Majesty; and after hearing the *Patent* read before the Judges, and consideration had thereof, they writ to the Lord Keeper and Lord Treasurer as followeth.

Right Honourable,

The Judges Opinions concerning that Office.

YOur Lordships may be pleased to be informed, that we lately received his Majesty's Gracious Letters of 13 *May* last, directed to us his Justices of either *Bench*, and Barons of the *Exchequer*, and to 'his Attorney-General, thereby requiring that whereas He had lately 'confirmed to *John Chamberlain* his Majesty's *Physician*, and to *Ed*-'*ward Brown* Esq. the Office of Receiver and Collector of Fines and 'Forfeitures, lately erected by his late Father of blessed memory, that 'we should assemble our selves, and sit down and publish such and so 'many Orders for the execution of the said Office, as to Law and Ju-'stice should appertain, and should be thought requisit and necessary: 'according to which his Majesties Command, We did assemble toge-'ther, and upon hearing his Majesty's Gracious Directions read, did ap-'ply our selves to the due performance of them. But so it is (may it 'please your Lordships) that upon consideration taken by us of the 'said *Letters Patents* to the end aforesaid, we found it would prove

5

6 Caroli.

'a great difficulty for us to frame or deviſe Orders for the Executi-
'on of them, for that it doth appear to us that they are both againſt
'Law and his Majeſty's Profit: We therefore thought it our Duties
'according to our Oaths, to proceed no further in this buſineſs un-
'till we had made his ſacred Majeſty acquainted herewith, and for
'that purpoſe we addreſſed our ſelves unto your Lordſhips, as unto
'Counſellors of great Truſt about his Majeſty, to preſent this our
'Intimation unto him, that by your Honours means we may know
'his Majeſty's further pleaſure herein; and for your Lordſhips bet-
'ter Information herein, we do hereby preſent unto your Lordſhips
'a ſhort and brief Note of the Exceſſes and Irregularities of the ſaid
'Letters Patents. The Exceptions were ſet down by way of *Arti-*
'cles, and after all the names of the Juſtices and Barons ſubſcribed,
'there were two of them, one for either Lord, and directed to them
'on the outſide as Letters.

The King of *Swedland* declares the Cauſes of his expedition into *Germany*.

Shortly after the King of *Sweden* ſigned the Agreement with the Marqueſs of *Hamilton*. He thought fit before he croſſed the *Baltick-Sea* with a Fleet, to come in perſon with an Army into the Bounds of the Empire to declare himſelf under publick proteſtation, That he 'meant no Hoſtility unto the Empire, or Perſon of the Emperor: 'Declaring further that his coming was principally to Releive that 'Diſtreſſed *Prince*, his Couſin and Confederate the Duke of *Stetin* '& *Pomeren*, who at that time, and for three years before, had bin injuriouſly oppreſſed by the Emperor; That he was not only engaged 'by ancient Alliances and Confederacies to aid the State of *Pomer-*'*land* (thus diſtreſſed, ſpoiled, taken and diſarmed,) but it concern-'ed him alſo in point of State and good Policy, not to ſuffer the 'the Duke's Enemy to be Maſter of thoſe Coaſts of the *Baltick-Sea*, 'whence he might at pleaſure infeſt *Sweden*, and at his leaſure and 'opportunity invade it. That his League with the ſaid Duke was 'Defenſive only, and not for any Offenſive War againſt the *Empe-*'*ror*.

Theſe Complaints, Aggrievances and Provocations of the King of *Sweden* were in fair and reſpectful manner, by Letters firſt preſented to the *Emperor*, and when that courſe brought no Redreſs, then for juſtification of his Proceedings, and by way of Apology, were the Circumſtances enlarged; and the whole printed for the World to judge. In which his Majeſty of *Sweden* farther Declared; 'That having been by his oppreſſed Neighbours and Confederates 'invited to their releif; He for a long time rather expected the *Em-*'*peror's* goodneſs towards the Subjects of *Germany*, than deſired to 'intereſt himſelf againſt him, with whom he ſo much wiſhed the 'continuation of Amity. That the Quarrel was firſt begun by the '*Emperor*, who in the late Wars of *Pruſſia*, between *Sweden* and *Po-*'*land*, had prohibited the King of *Sweden* to make any Levies of 'Men, or proviſion of Victuals, or Ammunition in *Germany*; ap-'parently granting the ſame liberty unto his enemy, the King of *Po-*'*land*. That the Emperor himſelf had heretofore ſent two ſeveral Ar-'mies under his own Enſigns into *Pruſſia*, in the aid of the *Pole*, his 'Enemy. The firſt in the year 1627, under the Command of the 'Duke of *Holſtein*, and the ſecond 1630, conducted by *Arnheim*, 'Marſhal of the Field unto *Walleſtein*. That his Courier riding Poſt with

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'his Packets, hath been ſtayed; His Letters unto *Bethlem Gabor* open-'ed, and falſe Copies publiſhed of them; That his *Embaſſadors* had 'been ſlighted, not admitted to Audience, nor vouchſafed an an-'ſwer; forbidden to ſtay in *Germany*. That upon the ſeeking of Peace 'by mediation of the King of *Denmark*, he obtained nothing but 'affronts and delays: and that writing to the College of *Electors*, 'then aſſembled at *Lubeck* 1629; he found in their Anſwers by their 'Letters the main point of the buſineſs not once toucht upon; and 'ſo no remedy that way neither.

'That the poor Town of *Stralſond*; notwithſtanding it had no way 'wronged the *Emperor*, and had received Aſſeverations and Promiſes 'of protection from the *Emperor*, yet had it been block'd up by *Wal-'leſtein*, Duke of *Freidland*; and the Iſland of *Rugen*, lying in the Sea, 'right againſt it, taken by the ſaid *Freidland*. That the Town and 'Iſland aforeſaid (his Confederates) had often complained unto him 'of this Injuſtice, and deſir'd his peaceful Mediation firſt, and his 'armed Aſſiſtance afterwards. That conſidering how things ſtood 'betwixt the *Emperor* and *Himſelf*; it much concern'd him not to 'ſuffer that *Iſland* and *Town* to be poſſeſſed by his Enemies, ſeeing 'they lie ſo commodiouſly for the Command of the *Baltick-Sea*, and 'ſo dangerouſly for infeſting the Coaſts of *Sweden*, which lie right 'againſt it: that the Emperor had actually moleſted thoſe Coaſts 'with Shipping, which he had newly gotten form *Dantzick*; and 'other *Hans Towns* thereabout had hindred the *Swediſh* Trade and 'Merchandizing upon the Coaſts of *Germany*.

The King of *Sweden* lands his Army upon the Coaſt of *Pomeren*, *June* 1630.

After the King had been ſeveral weeks with his Army at Sea, he landed about the midſt of the *Month* of *June* this year at a Dorp or Village in the *Iſle* of *Uſedom*, not far diſtant from *Stralſond*; and preſently intrenched himſelf. After him landed his *Colonels* and *Commiſſioners* with their reſpective Regiments. And upon the ſecond of *July* the Cannon Baggage, *&c.* landed; and two days after the whole *Cavalry*.

The 5th and 6th of *July* Embaſſadors came to the King from the Duke of *Mecklenburg*, *Pomeren*, and the Town of *Stralſond*; and the *Imperial Forces* were in a ſhort time driven out of that *Iſland* by Colonel *Alexander Leſley*. It was the 26*th* of *July* before the King tranſported his Army from that *Iſland*, to *Stetin*; being forc'd to bring them up the River *Odor*, and landed his Men within an Engliſh mile of that place; where the King drew his Forces in *Battalia*; and *Grave Neeles*, and the Lord *Rea* a *Scottiſh-Man*. Their Regiments had the Van-Guard in their march to *Stetin*, which being ſummoned to let the King of *Sweden* enter into the City, they then in the City ſeemingly deſir'd to ſtand neutral; but the Army drawing cloſe about the Town, they yeilded; And the King ſent Forces to beſiege *Colbergen*, a ſtrong Port Town upon the *Baltick-Sea*, and imployed his other Forces to take in Forts and Caſtles in *Pomerania* and *Mecklenburgh*, of which we ſhall ſpeak more particularly in the next Year 1631, when the Marqueſs of *Hamilton* did land his Army in *Pomerania* to aſſiſt the King of *Sweden*.

Stetin ſurrendred.

The King writeth to the Q. of *Bohemia*.

The King after the Arrival of Marqueſs *Hamilton* with the Conditions aforeſaid, wrote to his Siſter the Queen of *Bohemia*, to give her Aſſurance that he would haſten the Marqueſs of *Hamilton* with an Army of 6000 Men to aſſiſt the *Swede* in order to her Service; and

alſo

6 *Caroli.*

also acquainted her, That he had good hopes to prevail with the *Spaniard* by a Treaty (then in hand) to get the *Palatinate* restored; at which the Queen was highly dissatisfied, knowing by sad Experience, how the *Spaniard* had abused and delayed her Father King *James* in former Treaties. Whereupon the King to pacify her Passion against the *Spaniard*, wrote her this ensuing Letter.

The King's Letter to the Queen of *Bohemia*.

My only dear Sister,

HAving found that my last hath troubled you more than I could have imagined, (for I did suspect that at the first it would a little startle you, before you had well considered of it; but upon debate, I thought you would not have still remained unsatisfied, as I see you are) I would stay no longer from giving you satisfaction (as I hope) in some things which without doubt you mistake. But first give me leave to tell you, that it is impossible in this unfortunate Business of yours, either to give or take a Counsel absolutely good; but whosoever makes you believe otherwise, deceives you; so that the best counsel in this, being but the best Ill, must have many Objections against it; therefore I will not undertake a Disputation, but clear those things (if I spoil not a good Cause in the telling) which you apprehend to be most prejudicial unto you, which (as I take it) is, That if I make a Peace with Spain, *it will both hinder the Assistance of our Friends, and lay my Arms asleep for doing you Service. As for our Friends that can do us most good, (I mean* France *and the* United Provinces) *they cannot be further from doing you good than now they are: What the cause is I cannot say, but what it is not I can: for notwithstanding my Treaty with* Spain, *I have pressed them both, the one for making a* League *for the* Palatinate, *and Liberty of* Germany: *that that is made to that same purpose (which indeed was the true intent of it) they both deny, though in a diverse fashion; so that the Treaty of* Spain *is not the cause. As for* Sweden, *I confess he is to be heartned and used as much as may be; but I will assure you, I shall be the better able by a Peace with* Spain, *to help and hearten him. Now for me, I am so far from forgetting or leaving your Interests in my peaceable disposition; That* Spain *not only promiseth as much as I can ask for his Part for your entire Restitution, but confesseth, That if his Performance answereth not his Words, I have a just Cause to renew the War upon him; so that when I have opportunity, I shall not want a just Quarrel even with* Spain *by his own Confession; and in the mean time, though the Peace be made, I shall not rest, but do what lies in me to engage my Friends in an Offensive and Defensive League for the* Palatinate *and Liberty of* Germany. *Lastly, Whatsoever may be informed you, or your Husband, the Peace of* Spain *is so far from being concluded, that as yet I have not seen a Draught of the* Articles; *and I earnestly intreat you to believe, that what I shall do in this, shall be chiefly to do you the best service that may be; and as I shall proceed in this, you shall have a true account, as on my Credit you have had hitherto; assuring you that howsoever change of Affairs may alter* Councils, *my Actions shall ever prove me to be*

Your Loving Brother to serve you,

Charles R.

And

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The King grants the Marqueſs the Cuſtom of the Wines in *Scotland*.

And to enable the Marqueſs to raiſe his Men, and tranſport them with all Military Proviſions and things neceſſary, the King granted unto him a Leaſe of the Cuſtoms of Wines in *Scotland* for ſixteen Years; upon which Security the Marqueſs and his Friends raiſed as much Mony as carried on the Deſign.

The Marqueſs haſtens to *Scotland* to raiſe his Men.

Hereupon the Marqueſs haſtens into *Scotland*, in order to the chuſing of his Officers, and raiſing of his Men; and in the firſt place, fixed on the Lord *Rea* a Scotiſh Lord, a Perſon of great reputation for a good Souldier, who chearfully accepted of that Employment under the Marqueſs for that Expedition, notwithſtanding that he had then conſiderable Commands in the *Sweed's* Army. The Marqueſs employed the ſaid Lord *Rea*, together with *David Ramſey*, into *Holland* to endeavour to get ſome good Officers there, and to diſpoſe the States of the *United Provinces* for the King of *Sweeden's* Service. But that State perceiving that the King of *Great Britain* did not publickly raiſe thoſe Men that were to go under the Marqueſs, but in a private manner, refuſed to give any Aſſiſtance, till his Majeſty of *England* did more formally andpublickly declare himſelf.

The Marqueſs intends to return to Court.

After the Marqueſs had levied his Men in *Scotland*, his Officers were employed to train the Souldiers that were levied, and he prepared himſelf againſt the Spring in the next Year, to return to the Court in *England* to receive the King's Order for the Imbarquing of his Men, and to underſtand what Levies were made in *England* whilſt he was in *Scotland*; that the Souldiers levied in both Kingdoms, might meet at a certain Rendezvous, which was deſigned to be at *Yarmouth*, in order to their Tranſportation.

The Lord *Ochiltry* at Court when the Marqueſs of *Hamilton* arrived there.

Towards the end of this Year, the Marqueſs of *Hamilton* arrived at the Court of *England*, where was at that time *Mackay* Lord *Ochiltry*, a Lord in *Scotland*, by name *Stuart*, and who once bore the Name of the Earl of *Arran*, when by a Parliament which contracted a *by-Name* in that Kingdom, the *Hamiltons* were attainted of Treaſon, but afterwards both Blood, Honour, and Eſtate were reſtored to them. This Lord had no kindneſs for the Marqueſs of *Hamilton*, but nouriſhed a Diſcourſe, which *Ramſey* let fall to the Lord *Rea* when they were beyond Seas; and prevailed ſo far with the Lord *Weſton*, then Lord High Treaſurer of *England*, as to impart the Buſineſs to the King, being a Treaſon of an high nature (if true) to this effect; *That he raiſed this new Army, with deſign when he was at the head of them, to ſet himſelf up as King of* Scotland. Much credit was given to this Deſign by the Lord *Weſton* Lord High Treaſurer, who endeavoured to perſuade the King not to permit the Marqueſs to come near his Sacred Perſon, and in no kind to have the priviledg to lie in his Majeſties Bed-Chamber, leaſt his Majeſties Life were hazarded thereby.

The Marqueſs of *Hamilton* accuſed of high Treaſon.

The Lord *Weſton* preſſed this home unto the King, but his Majeſty kept his thoughts private to himſelf; and having a great Affection to *Hamilton*, as ſoon as he came into his Preſence, imbraced him with great kindneſs, and diſcovered to him what he was accuſed of, but ſaid, I do not believe it; and that the World may know I have a confidence in your Loyalty, you ſhall lie in my Bed-Chamber this Night. But the Marqueſs beſeeched his Majeſty to excuſe him, till he had received a Trial, and was cleared of the Treaſon he was accuſed of; but

But the King would receive no denial, yet told him he would put the buſineſs into a way of Examination; but afterwards when the Examination was taken, it was found that the one affirmed the Accuſation to be true, and the other as poſitively denied it, and that there appeared not then any concurrent proof of the ſame.

6 Caroli. Notwithſtanding the King commanded him to lie in his Bedchamber.

A report of theſe Examinations was afterwards made to the King's Majeſty, who was graciouſly pleaſed to refer the whole matter to a Tryal before the Lord High Conſtable, and Earl Marſhal, in the Court of Honour, of which the Reader will have a full account towards the end of the next Year in its proper time and place. In the mean time the King cauſed *Rea* and *Ramſey* to be ſecured in order to that Trial: ſo the Marqueſs proceeded in making proviſions for the imbarquing of his Army, and ordering thoſe Forces in *Scotland* to be in readineſs to be ſhipped, to come to the place of Randezvous when they received Orders.

At this time there were great Affairs tranſacted in the Parliament (or Diet) at *Ratisbone* in *Germany*, of which take a brief Account; whither were ſent an Ambaſſador from the King of *Great Britain*, as alſo another from the *Elector Palatine*, (accompanying the *Engliſh* Ambaſſador) The Paſſages and Circumſtances attending that Imperial Diet were as followeth.

The Dyet at *Ratisbon.*

At the time of the opening of this Diet all parties were weary of the War, and the Emperor himſelf had enough of it; for the War had continued from the year 1618 (in which year the great Blazing-Star appeared) unto that time in a moſt bloody and cruel manner, inſomuch as utter deſolation was brought upon one of the moſt flouriſhing Countries in the World, which the Emperor wiſely conſidered with himſelf, that if thoſe heavy Impoſitions ſhould be continued to maintain a ſtanding Army, and thoſe Violences, Injuries and Outrages ſhould be again committed by the Souldiers of the Empire under *Walleſtein*, which had ſo diſguſted the People againſt the Emperor; and if other Wars ſhould thereupon enſue, the Chances whereof might happen to be uncertain, and the event in the end fatal. And further, that if at this Diet things unreaſonable ſhould be propoſed unto him by the Confederate Proteſtant Princes, if he did refuſe their deſires upon *juſt* grounds, he ſhould thereby oblige the Confederate Princes of the Catholick League the more firmly to aſſiſt him, then if he ſhould refuſe the calling of a Parliament (or Diet) and act upon his Imperial Authority.

The Emperors inclination for a Peace.

The Princes Catholick for for a Diet.

The Princes of the Catholic League, as alſo the Catholick party, ſeemed very deſirous of this Diet, having, as well as the Proteſtants, ſhared in the inſolencies of the Imperial Souldiers under *Wallenſtein*, and of the charges of the War; And the more moderate ſort of Catholicks were much diſſatisfied at the Covetouſneſs of the Duke of *Bavaria*, for his preſſing the Emperor ſo hard to confer the Electorſhip and Patrimony of the Prince Elector Palatine upon him, as a reward for his Services, they conceiving this action of diſinheriting a Prince of ſo great Intereſt and Alliance, would at one time or other, raiſe up friends that might diſturb the Peace of the Empire; wherefore they wiſhed the Emperor would rather confiſcate the Eſtate for life, as a puniſhment for the Father's Offence, than to diſinherit the Children, who were innocent of their Father's *forward and raſh undertaking*, as they termed it.

And diſſatisfied with *Bavaria* to covet the *Palſgraves* Patrimony.

Thoſe

An. 1629.

Thoſe of the Catholick League expreſſed themſelves as to the ſaid Diet, That though they did much deſire it, yet their hopes were that the Emperor would never conſent to let the Proteſtants go away without reſtitution of the Church Lands and Goods, which they pretended the Proteſtants held from them.

The Princes Proteſtant long for a Peace.

The Princes of the Union and Proteſtant Party, were no leſs thirſty of Peace, having undergone the greateſt of all hardſhips, being moſt of all overlaid with heavy Impoſitions, and with the Billeting of Souldiers of the Catholick League, and were deſirous that there might be an abſolute Oblivion of all things by-paſt, and the Empire ſettled in a firm Peace. Great Joy therefore was throughout the Empire, expecting that there would be an end of further War, and a firm and ſettled Peace concluded at this Diet. But there wanted not thoſe, who did inſinuate unto his Imperial Majeſty what was fit for him to inſiſt upon at the meeting of the Diet, from which it was not fit for the Emperor to recede; Amongſt which one was,

Private Reſolves of the Emperor, from what things not to recede.

1. That he ſhould in no wiſe conſent to a ſetlement until the Proſtants ſhould reſtore the Church-Lands and Goods unto the Catholick party.

2. Not to diminiſh his Army, but in a ſmall proportion, that he might keep up his Power by force, and a ſtrong hand, leſt the Depoſed Princes, and others, ſhould upon any opportunity of advantage, revenge themſelves upon the Emperor.

3. And therefore reſolved to keep up his Army, and not to reſtore the Prince Elector Palatine to his Dignity and Patrimony.

Notwithſtanding all oppoſition, the Emperor met at the Diet; he repreſented unto the Princes then aſſembled, that he was not the cauſe of ſo cruel a War as had been, nor would be a hinderer of the Peace, imputing all the miſchief that fell out upon the War, unto the *Palſgrave*, *Count Mansfeldt*, *Brunſwick*, and the King of *Denmark*, and that it was high time to think of a firm and ſettled Peace: But as to the *Palſgrave*, he propoſed to the Diet to paſs an Act, that he ſhould continue a *Baniſhed Man*, without all hopes of returning; and that they would never vouchſafe to entertain Peace or Amity with him.

The Emperors propoſal at the Diet as to the *Palſgrave*.

That the *French* were concluding a League with the King of *Sweden*; and though there were cauſes of Enmity between Him, the *Emperor*, and the King of *Swedeland*, yet if the King of *Sweden* would not condeſcend unto the *Imperial Ambaſſadors* and the King of *Denmark*'s Mediation for a Peace, he was to be threatned with the Power of the *Roman Empire*, and to be chaſtiſed by Force of Arms.

Laſtly; His *Imperial Majeſty* propoſed that the Princes would conſult to provide Money for maintaining a ſtanding Army; for reſtoring of Martial Diſcipline, and of the manner of laying and levying Impoſitions.

In Anſwer to the Propoſals of the Emperor, the Princes Electors laid open the general Grievances and Miſeries of the Empire, the Outrages committed in the War, and exceſſiveneſs of the Impoſitions; And as the Emperor laid the fault upon the *Palſgrave*, the *Electors* laid the fault of all the miſery that had happened, upon the new Duke of *Mecklenburgh* (*Walleſtein*) General of the Emperors great Army, to whom his Imperial Majeſty had given ſuch a large Commiſſion

Commiſſion, without the conſent of the Princes of the Empire (as never before him any Man had.) That the Impoſitions which by the Laws of the Empire had wont to be aſſeſſed by the joint conſent of the Princes, had at the pleaſure of the ſaid Duke of *Mecklenburgh* bin impoſed, and moſt rigorouſly exacted; Inſomuch that the Elector of *Brandenburgh* had in a few years bin forced to contribute about *Twenty Millions of Florins*. The Duke of *Pomerland* complained, that *Ten millions* was paid out of his Principality of *Stetin*, all in one Year only; beſides other Charges and Expences with the Rabble of the Army. 6 Caroli.

The like complaint came from other Princes. In concluſion, the ſaid Electors did more particularly fall upon the ſaid Duke of *Mecklenburgh*, preſſing the Emperor to caſheir him, and to diſband his Army, and to have Peace made with the *French* King, and the Princes of *Italy*, and with the King of *Swedland* alſo.

The Complaints both of the Proteſtant and Catholick Princes were ſo many and very great againſt *Wallenſtein*, and the Inſolencies of his Souldiers in their Quarters, and of his Commiſſaries in their bold levying of Mony upon the Empire, as that the Emperor had nothing to ſay for him, but conſented to their Deſires, that his Command ſhould be taken from him. And two Barons of the Empire were ſent to him, with the Propoſals of the *Diet* preſented to the Emperor, and the Emperor's Reſolution thereupon, that he ſhould deliver up his Commiſſion. The Emperor conſents.

All Mens Minds were full of expectation what the event of this Meſſage to a General ſo Potent, and an Army ſo Rude, ſhould produce: But contrary to all imagination, *Wallenſtein* complied with the Emperor's Command, left his Army and went to *Nimmegen*, where he remained as a private Perſon. *Wallenſtein* lays down his Commiſſion.

The Electors having prevailed as to his Removal, propoſed alſo unto his Imperial Majeſty further to declare his purpoſe, that no War ſhould be made upon any without the conſent of the Princes, and that no Impoſition ſhould hereafter be levied at the pleaſure of the General of the Army.

The Electors having obtained a ſafe Conduct of the Emperor for *Ruſdorfe*, Ambaſſador of *Frederick* Prince Elector Palatine, he came to the *Diet*, in the Company of Sir *Robert Anſtruther* the King of *Great Britain*'s Ambaſſadour, who much preſſed for Audience, about the time that News came how the King of *Swedland* was active in *Pomerland*, which made moſt of Opinion his Landing would contribute to get Reſtitution of the ſaid *Elector Palatine* to his Dignity and Patrimony. And Audience being granted to the *Engliſh* Ambaſſadour, he thus delivered his Errand. Sir *Robert Anſtruther*.

'That nothing could affect (his Maſter) the King of *Great Britain* more, than the conſideration of the daily Calamities undergone 'by his Brother-in-Law the Prince Elector, his Wife and Children. 'That no Place was more expedient to Treat of Peace, Reconciliation, and Re-eſtabliſhment than in the *Diet*; therefore he made it his 'ardent Requeſt to his Imperial Majeſty, That having regard to the 'many Interceſſions of his late Father, and other Kings and Princes, 'he would remit the Diſpleaſure conceived againſt his Brother, and 'recal the Proſcription iſſued out againſt him. The Engliſh Ambaſſador gets Audience.

An. 1630.

'True it was, his Brother had offended, and was inexcuſably guil-
'ty; unleſs the raſhneſs and precipitation of Youth might ſomewhat
'plead for him; but others had bin as culpable, whom yet his Impe-
'rial Majeſty had received into Favour.

'And would he be pleaſed to extend to him the ſame Clemency, it
'would oblige his Maſter to demonſtrations of the greateſt Gratitude,
'and raiſe a glorious Emulation in others, to imitate ſo excellent a
'Pattern.

'That the *Palſgrave* would entertain this Favour, with an Heart ſo
'firmly devoted to his Service, ſo as all the Intentions of his Spirit
'ſhould be diſpoſed to Compenſation and Reparation of his former
'Miſcarriage.

'That his Majeſty held nothing ſo dear as the Affection of his Impe-
'rial Majeſty, and eſtabliſhment of a durable Peace between them;
'And as upon all Occaſions he hath been forward to repreſent himſelf
'ſolicitous for it, ſo at this time he was ready to give more am-
'ple Teſtimony, if his Imperial Majeſty was pleaſed to incline to a
'Treaty.

All this being fair and full of reſpect, gained Civilities to the Am-baſſadors: but it was anſwered,

The Emperors Anſwer.

'That the preſent Affairs of *Germany*, which occaſion'd the *Diet*,
'were ſo important, as not to admit of any Forreign Debate; and
'yet upon opportunity and leiſure, the King of *Great Britain* ſhould
'receive ſuch ſatisfaction as would be agreeable to their Honour, and
'Confidence his Majeſty had in him.

Treaty of Peace broke off between the Emperor and the King of *Swedland*.

Preſently after this Audience of the King of *England*'s Ambaſſa-dor, more particular News was brought, That the Imperial Ambaſſa-dour was returned from the King of *Sweden* without any hopes of Peace, and that the King of *Swedland* had in *Pomerland* made himſelf Maſter of *Stetin*, and put the Imperial Forces to flight.

Now the Ca-tholic Princes appear for War.

And now the Catholick Princes, who before ſeemed very deſirous of Peace, (fearing ſome private Conjunction was made with the King of *Swedland* by other Princes) diſpoſed the Emperor to proſecute the War, and lay Impoſitions proportionably upon them of the Catholic League.

It is to be obſerved, that during all the time of the *Diet*, *Cæſar* made no other Propoſitions than what he did at the opening thereof; Yet underhand it was ſuggeſted by thoſe near the Emperor, what Miſeries might befal the Empire in caſe of an *Inter-Regnum*, magni-fying *Ferdinando* King of *Hungaria* Son of the Emperor, and how acceptable it would be to the Empire, if at this *Diet* he was choſen King of the *Romans*, which is as much as Heir apparent to the Empire. The Proteſtant Electors having no inclination thereunto, in anſwer to thoſe which made this Propoſal, much commended the Emperor for his care of the Common-Wealth, but that it was contrary to the Laws of the Empire at this time to conſent thereunto.

A deſign to make *Ferdi-nando* the Em-peror's Son, King of the *Romans*.

This being not mentioned as a particular Cauſe for the calling of this *Diet* to create *Ferdinando* King of the *Romans*: And alſo for that by the Laws of the Empire, *Franckfort* is the place appointed for the Election

6 Caroli.

Election of the King of the *Romans*; and thus they excuſed the Matter, but it was reſented by *Cæſar*; and from that time he proceeds with ſeverity as to the Church Lands, and decreed at this *Diet*, 'That 'thoſe Gentlemen of the *Upper* and *Lower Palatinate*, *Frankenholm*, 'and other Countries, who had born Arms under Count *Mansfield*, 'Duke of *Brunſwick*, and others, that their Eſtates ſhould be con-'demned as confiſcated. And with the Profits thereof, the Emperor did gratify his Privy Council and others with Penſions for a reward of their Services.

Some of the Princes Eſtates declared to be confiſcated.

The Proteſtant Electors, and other Princes, proteſted againſt theſe Proceedings of the Emperor, claiming thoſe Gentlemen to be within their Dominions, and that the Forfeitures of thoſe Fees and Eſtates which *Cæſar* had now confiſcated into his own Coffers, did by the favour of former Emperors, and long continued Cuſtoms, belong to the ſaid Princes. Urging further to the Emperor in favour of thoſe Perſons (whoſe Eſtates he had confiſcated) the Example of other Princes, who even upon the like occaſion did paſs by many Crimes, to procure a ſetled Peace in their Dominions; and amongſt others inſtanced in *Coſmo de Medicis* Duke of *Florence*, a moſt wiſe Prince, who in caſes of Diſturbance in his Dominions, always left the Eſtate of ſuch as were Attainted, unto their Children, or next Kindred, after the Death of the Offender.

The Proteſtant Princes Proteſtation againſt it.

Yet the Emperor hearkned not thereunto, but declar'd, That he could not in Honour and Juſtice but make remarkable Examples of thoſe that had born Arms againſt him, that it might be a Terror to others for the future.

The Emperor will not hearken to the Proteſtant Princes.

And as for the Church Lands, he had already deſign'd with himſelf that they ſhould be reſtored to the Catholicks, and publiſhed the ſame by Proclamation, and that he would not recede from what he had done. And then proceeded to a Decree and Sentence againſt the Duke of *Wortenburgh*, the Marqueſs of *Brandenburgh*, the Count of *Hohen* and other Princes, who were by the Decree commanded to quit Church Lands and Goods, which for eighty Years they had enjoyed, by virtue of the Agreement they made at *Paſſaw*, *Anno* 1555.

Decrees that they ſhall quit the Church-Lands.

In which Decree it was declared, That the Violaters of that Agreement of *Paſſaw*, ſhould be adjudged as Enemies to the Empire.

Notwithſtanding this proceeding of the Emperor, the Catholick Princes (to all outward appearance) did very earneſtly deſire to compoſe the Buſineſs of the Church Lands, but were importuned by the Jeſuits againſt any Compliance (by whoſe means was likewiſe a rigid courſe taken at this *Diet*) for the Reformation of Proteſtant Churches and Schools, and for the forbidding of the *Auguſtine* Confeſſion to be exerciſed by the *Lutherans*.

The Jeſuits ſolicit againſt the Compliance.

On the third of *November* the *Diet* broke up, leaving Matters in a far worſe condition than it found them, for that Men now perceived their very Hopes to be taken away, as their Liberty and Goods had bin before.

The *Diet* broke up.

The Catholick Princes before the *Diet* broke up (being ſtill inclinable to a compoſure of the Buſineſs of Church-Lands) did prevail with the Emperor, that the *Diet* might meet again at *Frankfort* upon the Main, in *Auguſt* following, for ending thoſe Differences.

Nevertheleſs the Catholick Princes prevailed for a *Diet* at *Frankfort*.

In the mean time the Proteſtant Princes entered into a Conſultation for their own Safety, plainly ſeeing the Jeſuitical Party too prevalent with

And the Proteſtant Princes for a *Diet* at *Lipſwick*.

An. 1630. with the Emperor; and they agreed upon a Letter to be written by the Duke of *Saxony* to his Imperial Majeſty, taking notice that there had bin a Conference between the Proteſtant and the Catholick Princes at the former *Diet* concerning Church-Lands, and that the further Treaty thereupon was referred unto a *Diet* to be held at *Frankfort* in *Auguſt* following, and therefore beſought his Majeſty to give liberty to the Proteſtant Princes to hold a *Diet* by themſelves in ſome convenient Place, that ſo by their united Council, they might be provided with an Anſwer to the Catholick Princes, at their meeting in the *Diet* at *Frankfort*, concerning the ſaid Church-Lands. The Addreſs to the Emperor was recommended, with the Mediation of the Elector of *Mentz* and *Bavaria*; and the Emperor agreed to what was deſired, and *Lipſwick* was the place appointed for the meeting of the Proteſtant Princes, and the time was *Feb.* 8. then next following.

Duke of *Saxony* opens the occaſion of the Meeting.

At the Time and Place appointed, all the Proteſtant Princes in *Germany* met in Perſon, or by their Deputies, but moſt in Perſon; and the Duke of *Saxony* laid open the occaſion of their meeting.

1. 'How the Church might be with a good Conſcience maintained 'in her ancient Liberty and happy Eſtate.

2. 'How to keep their Obedience to the Emperor, and yet preſerve 'the ancient Conſtitution and Peace of the Empire.

3. 'How to maintain correſpondency with the Catholick Princes in 'order to the Peace of the Empire.

4. 'What to anſwer for themſelves, both in general and particular, 'as well concerning the maintenance of the Reformed Religion, as to 'the Emperor's Edict concerning Church-Lands, when they ſhould 'come to meet at the *Diet* at *Frankfort*.

Proteſting withal, That he would be ready to adventure Life and Goods in that Cauſe, and deſiring every Man to give his counſel freely in ſuch manner, as they might be able to render a fair account of it to his Imperial Majeſty. And after ſome time of Debate, with one joint Conſent, they did humbly complain to the Emperor what their Grievances were, and repreſented what would prove Remedies, and ſent an Expreſs therewith to his Majeſty, and are reducible to theſe Heads.

Grievances laid open to the Emperor.

1. 'That the Golden Bull, or *Magna Charta*, and Conſtitution of 'the Empire might be firmly obſerved, which hath been violated by 'the Emperor's late Edict for the Reſtitution of Church-Lands, and 'through his Endeavours, to root out the Proteſtant Religion, which 'hath bin the main Cauſe of the late miſerable Wars and Troubles.

2. 'They complained of particular Injuſtice done to particular 'Princes and Cities, by the violent taking away of the Church-Lands, 'as the Duke of *Wurtenburgh*, the Duke of *Brunſwick*, the Prince of '*Anhault*, and others.

3. 'And that ſome were hindered in the Exerciſe of their Religion, 'as *Auguſtus* and *Frederick*, Princes Palatine, and others; and that 'forty eight had their Eſtates confiſcated, as the Lady *Electrix Palatine*, 'and her Son *Lewis Prince Palatine*, the one being the Mother, the 'other the Brother of the King of *Bohemia*, and the Duke of *Meck-*

'*lingburgh*,

6 *Caroli.*

'*lingburgh*, &c. for whom the whole College of *Electors* had interceded in the laſt *Diet*, but prevailed not.

4. 'A complaint of the violent altering of the Feods of their 'Lands and Lordſhips, into which the Imperial Commiſſaries had by 'Force and Arms entered, changing the Tenure of the Tenants, and 'altering the Religion.

5. 'That their Lands have bin given to Souldiers, as if they had 'bin conquered.

6. 'That treble more Contributions have bin raiſed againſt no Ene'my, than ever were when the *Turks* were in *Germany*; with many 'other Particulars. Concluding, That all this is contrary to the Oath 'of the Emperor, and unto the Laws of the Empire, the Privileges 'of the Princes, and againſt the Honour and Safety of the Empire; 'of which the ſeveral Electors and Princes had complained, and which 'by them were proteſted againſt in the late *Diet* at *Ratisbone*.

'Wherefore they now humbly Petition his Imperial Majeſty to be 'relieved, proteſting otherwiſe they are not able to endure the Bur'then, but ſhall be inforced to defend their Perſons, Conſciences, 'Eſtates, and Subjects; reſolving notwithſtanding to continue their 'due Loyalty and Obedience to his Imperial Majeſty; yet in the mean 'time to prepare for a War, in caſe the Matters complained of by 'them ſhould not be redreſſed. This bore Date at *Lipſwick*, *March* 18. 1631. and the *Diet* broke up upon *Palm-Sunday* following.

Communicated to the Catholick Electors.

The ſubſtance of what they writ to the Emperor, they ſent unto the three Catholick *Electors*, informing them, That War would undo all, that the Inſolencies of the Commiſſaries and Souldiers were not to be endured.

The Emperor puts forth his Imperial Ban.

The Emperor not ſatisfied with their Addreſs, and underſtanding their Reſolution to levy Forces, (and hearing withal that the King of *Swedland* had advanced already through *Pomerland* in a victorious manner) put forth his *Imperial Ban* againſt the *Lipſwick Legar*, peremptorily forbidding any place of the Empire to grant, either Relief, Paſſage, or Quarter unto any of their Forces; and commanding every Man to deſtroy, kill, and perſecute, the *Lipſwick Legar* as Enemies; withal tenders Pardon to as many as ſhould come in; and forbidding all the Subjects of thoſe Princes, upon pain of Death, either to contribute to their Levies, or to march under their Enſigns, promiſing the freedom of Conſcience and Eſtates to all that ſhould thus obey him, and turn both their Mony and their Perſons towards the advancement of the Imperial Eſtate.

The Proteſtant League was now noiſed abroad, and another meeting at the latter end of *May* at *Lipſwick* was appointed. *Tilly* advances with his Army, and ſends *Papenheim* to reduce *Magdenburgh*; of which more hereafter. But let us now return to *England*.

The Biſhop of *London* had the honour, as Dean of the Chappel (my Lord's Grace of *Canterbury* being infirm) to Chriſten Prince *Charles* at St. *James's*. His Godfathers were the King of *France*, and the Prince *Elector*, repreſented by the Duke of *Lenox*, and the Marqueſs of *Hamilton*; The Godmother was the Queen-Mother of *France*, and her Perſon repreſented by the Dutcheſs of *Richmond*.

The

An. 1630.

The King ſtanding in need of a further ſupply, the buſineſs of *Knighthood* was retaken into conſideration, and with care and diligence ſet on foot, being grounded upon an old Statute entituled *Statutum de Militibus*, which Statute tho it had long ſlept, and was very ancient, yet was now put in execution as a Prerogative Statute, which occaſioned many Pleas in the *Exchequer*, but to countenance the ſame a Proclamation was iſſued forth to this effect.

July 6. 1630.

'THat whereas the King having formerly ſent forth Writs to ſe-'veral Sheriffs of the ſeveral Counties for the ſummoning of 'all that had fourty pound Land or Rent by the year, to appear at 'the day of his Coronation, and prepare themſelves to receive the Or-'der of Knighthood, did now award a Commiſſion to certain Lords 'and others of his Privy Council, to treat and compound with all 'thoſe who then made default, as well for their Fines and their Con-'tempt, as for their reſpite to take that Order upon them. Where-'upon multitudes were ſummoned to give attendance at the Council-'Chamber at *Whitehal.*

Knighthood.

Commiſſion to compound with ſuch perſons as did not appear to take the Order of *Knighthood* on them at the King's Coronation.

The Names of the Commiſſioners of the Privy-Council touching the Order of Knighthood were theſe.

Lord *Keeper.*
Lord *Treaſurer.*
Lord *Preſident.*
Lord *Privy-Seal.*
Lord *High-Chamberlain.*
Earl *Marſhal.*
Lord *Steward.*
Lord *Chamberlain.*
Earl of *Suffolk.*
Earl of *Dorſet.*
Earl of *Salisbury.*
Earl of *Exeter.*
Earl of *Northampton.*
Lord Vicount *Dorcheſter.*
Lord Vicount *Wimbleton.*
Lord *Wentworth.*
Mr. Vice *Chamberlain.*
Mr. Secretary *Cooke.*
Mr. *Chancellor of the Exchequer.*

Commiſſions directed into the ſeveral Counties.

Likewiſe ſeveral Commiſſions were awarded into the ſeveral Counties, giving power of compounding with all perſons, except the Nobility, who were ordered to compound before the Lords of the Council. The Commiſſioners had this main Inſtruction, "To take no leſs "than after the rate of thrice and half as much as the Perſons com-"pounding were found rated in the Subſidy.

Proportions for Compoſitions.

But there were many in all parts that neglected to appear, or refuſed to Compound. Theſe were ſummoned by Meſſengers to the *Council-Table*, and were there told of ſevere proceedings in caſe of obſtinacy. And divers put in their Pleas into the Court of *Exchequer* to be diſcharged from theſe Fines. But the Commiſſioners in the Country were to inform themſelves of the true ſtate of the Livelyhood of each perſon, and to admit them to Compoſition in caſe they deſired it, otherwiſe to let them know that upon return of Certificates, they muſt expect to undergo a legal Tryal in the *Exchequer.*

Pleas put in the *Exchequer* againſt *Knighthood.*

And upon conſideration of the prejudice done to this Service, by reaſon of the partial and negligent Returns made by the Sheriffs in moſt Counties, it was ordered, That Mr. Attorney General ſhould proceed by Information in the *Exchequer* againſt ſuch of the Sheriffs, as ſhould appear to have been moſt negligent.

Sheriffs neglect to return the Names of perſons.

The

6 *Caroli.*

The Order of Summons from the Privy-Council, who were Commiſſioners, and directed to certain Noblemen to appear in order to a Compoſition, was to this purpoſe.

The Order of Summons for the Noblemen to compound.

'WHereas his Majeſty hath already ſent divers Commiſſi-
'ons into ſeveral Counties of this Realm, for compound-
'ing with ſuch as had not taken *Knighthood* at his Coronation, there-
'upon a great part of the Gentry of this Realm, and others of ability
'have made their ſeveral Compoſitions: but it was his Majeſty's Plea-
'ſure, that ſuch of the Nobility as had not taken the Order of Knight-
'hood at his Coronation, ſhould be treated with and compounded
'with by us the Lords and others of his Majeſty's Privy Council:
'We therefore by his Majeſty's Command, do hereby ſignifie and
'give notice to your Lordſhips, that we have appointed the firſt day
'of the next Term at nine of the Clock in the morning, to ſit upon
'the ſaid Commiſſion for compounding with you in the Council-
'Chamber: wherefore we require your Lordſhips, or ſome authorized
'from you to that end, to attend Us. The Summons was directed to

The Names of the Noblemen ſummoned.

Lord Marqueſs of *Winton.*	Earl of *Kingſton.*
Earl of *Arundel.*	Lord Vicount *Say* and *Seal.*
Earl of *Eſſex.*	Lord Vicount *Mountague.*
Earl of *Huntingdon.*	Lord *Brook.*
Earl of *Peterborough.*	

A Warrant of Summons againſt Refuſers to compound in the Country

'WHereas his Majeſty is given to underſtand, that you whoſe
'names are here under written, dwelling in the County of
', have either neglected to appear, or appearing, refuſed to
'compound with his Majeſty's Commiſſioners appointed to treat with
'you in that behalf, for your not attendance at his Majeſty's Coro-
'nation, to receive the Order of Knighthood, according to the Law,
'you being all, as we are informed, Men of good ability; at which
'his Majeſty doth much marvel, conſidering that you cannot be igno-
'rant how legal this Demand is, and conſequently how much the ſaid
'Commiſſion is in your favour, that nevertheleſs you ſhould refuſe to
'accept of his Majeſty's Grace therein: His Majeſty notwithſtanding
'out of his accuſtomed Goodneſs, is rather willing that thoſe who
'peradventure more out of miſtake, or ill example of others, than out
'of their own wilful oppoſition to his Majeſty's Service, have been
'herein miſled, ſhould be reduced to conformity by fair means, and
'with leaſt charge or trouble to them, than by any compulſory courſe
'of Law, which his Majeſty in all caſes between him and his People
'doth in their favour deſire to avoid as his laſt Reſort: We are there-
'fore in his Majeſty's Name, and by his expreſs Command, hereby to
'ſignifie unto you, that his Majeſty expects and requires you ſhould
'(accordingly within ten days next after notice hereof) make your
'repair unto us at *Whitehal*, to the end that in purſuance of his Ma-
'jeſty's pleaſure, we may treat with you concerning your ſaid Com-
'poſition, before any further or more compulſary proceedings be had
'againſt you.

Directed unto { *James Maliverer*, Eſq. / *William Ingleby*, Eſq. / . . . *Moyſer*, Eſq. &c. } in the County of *York.*

The

An. 1630.

The like Warrant was directed to divers Knights and Gentlemen dwelling in other Counties.

At this time there happened a great Riot in *Fleetſtreet*; and for the better diſcovery and apprehenſion of thoſe Malefactors, who were Actors in the late inſolent Riots and Murthers committed in *Fleetſtreet*, *London*, upon Friday the 10*th* day of *July*, a Proclamation to this Effect was publiſhed.

A Riot in *Fleetſtreet*.

'WHereas upon *Friday*, the tenth day of this inſtant Month, upon the occaſion of an Arreſt then made by the Sheriffs Officers of the City of *London*, divers inſolent Aſſaults and Tumults were made and raiſed upon the Conſtables and Watches of the City; whereupon much Blood was ſhed, and barbarous Murthers of divers of the King's Subjects have inſued, and thoſe Inſolencies ſo long continued, and at the laſt grown to ſuch height, that there was an open and violent reſiſtance and oppoſition made againſt the Lord Mayor of *London*, and Sheriffs of the City, aſſiſted with ſome of the Trained Bands, neceſſarily drawn forth to ſuppreſs thoſe Outrages, which were committed rather in a Rebellious than a Riotous manner. His Majeſty having taken thoſe Affronts to Juſtice, and to his publick Officers and Miniſters, into his Princely conſideration, and having already given a ſtrict charge and command, for the due Examination of thoſe ſo bold and audacious Attempts, and finding by the return of thoſe, whoſe pains have been imployed in that Service, that very few of the principal Actors can by their induſtry be yet taken or diſcovered; and his Majeſty being in a caſe of this extraordinary Quality and Conſequence, reſolved to proceed according to the ſtrict rules of Juſtice, againſt all thoſe who ſhall be found to be the Offenders, that by their examples, others may hereafter be warned not to dare to run into the like: Wherefore the King doth will and command all his Subjects whom it may concern, eſpecially the Chirurgions in or near the City of *London* or *Weſtminſter*, who have, or ſince that day had, any hurt or wounded Men in their cure, that they and every of them upon their Allegiance to the King, and the duty they owe to the publick Peace of the State, and upon pain of ſuch Puniſhments, as by the Laws, or by his Majeſty's Prerogative Royal can be inflicted upon them, for their neglect herein, do forthwith upon publication of this our Royal Pleaſure, diſcover to the Lord Preſident of the Privy Council, or to one of the Principal Secretaries of State, the Names of all ſuch perſons as they know, or by probable conjecture do ſuſpect to have bin Actors in any of thoſe late Tumults, and cauſe them to be detained or apprehended, without expecting any further or other Warrant in that behalf; and by name that they apprehend or cauſe to be apprehended whereſoever they ſhall be found, Captain *Vaughan*, *Henry Stamford*, and one *Ward* an Enſign.

Afterwards *Stamford*, and others of the Rioters were Indicted and Convicted of Murders, and *Stamford* executed accordingly: Notwithſtanding the Duke of *Buckingham* endeavoured to ſave his Life.

On the 28*th* of *September* the King taking into Conſideration, the general ſcarcity and dearth of Grain and Victuals which was like to fal lout in the Kingdom, declared his Pleaſure and Commandment concerning

concerning the ſame by Proclamation, purſuant to a *Book of Orders* for preventing and remedying thoſe Evils, grounded upon ſeveral Statutes made in the time of Queen *Elizabeth* and King *James*, and now ordered the reprinting of the ſame; wherein are particular Directions for ſuppreſſing the Abuſes and Offences of *Ingroſſers*, *Badgers*, &c. *6 Caroli.*

Michaelmaſs, 6. Car. *B. R.*

This *Term* an Information was put in againſt *Vaſſal* in the *Exchequer*, for not paying the impoſition of Currans, (which being 7 *s.* upon the 100 weight) was brought to 4 *s.* 10 *d.* The Defendent demurred in the Court of *Pleas* to this Information; and the Cauſe ſo depending, *Vaſſal* denied to pay until the Court ſhould adjudg it. Whereupon, inaſmuch as the ſame Matter had been adjudged for the King before in the Caſe of *Bates*, when *Cook* was Attorny, and that Judgment ſtood in force, not avoided by Error; the Court ordered that the King's Poſſeſſion ſhould be continued, and *Vaſſal* ſhould pay until other Order. And for not obeying this Order, he was committed to a Meſſenger of the Court, and for his Liberty brought a *Habeas Corpus*: On which *Writ* it appearing by the Return, that he was committed by a Court of Juſtice, upon their Act in Court, in a Cauſe properly in their cognizance, the Court did remand him to ſeek there for Juſtice, and ſo he went back to Priſon by the Award of the Court. *Habeas Corpus* for *Sam. Vaſſal* a Merchant.

Michaelmaſs, 6 Car. *B. R.*

John Selden was committed to the *Marſhalſey* of the *King's Bench*, for not putting in Sureties for his Good Behaviour. There were with him in the ſame Priſon *Hobart*, *Stroud*, and *Valentine*. In the end of *Trinity Term*, 6. *Car.* the Sickneſs increaſing in *Southwark*, the three laſt named made ſuit unto the Judges of the *King's Bench*, to be delivered over to the *Gatehouſe* in *Weſtminſter*, to avoid the danger. The Judges thought it Charity, and by Writ to the Marſhal of the *King's Bench*, commanded him to deliver them to the Keeper of the *Gatehouſe*, and ſent him a Writ to receive them. Mr. *Selden* never ſent unto them whilſt they were in Town, but when they were all gone, made ſuit to the Lord *Treaſurer* to move the King, that to avoid this danger, he might be remov'd to the *Gatehouſe*; which he did, and ſent a Warrant under his Hand to the *Marſhal*, ſignifying his Majeſties Pleaſure to remove him to the *Gatehouſe*; accordingly he was removed. Thereupon when the Judges came to Town in *Michaelmaſs* Term, they called the *Marſhal* to account for his Priſoner Mr. *Selden*; and he preſenting unto them the Lord *Treaſurer*'s Warrant by the King's direction, the Judges told him it would not ſerve, for he could not be removed but by Writ; and upon his Majeſties pleaſure ſignified it might ſo have bin done. And although the Judges were out of Town, yet the Clerk of the Crown would have made the Writ upon ſo good a Warrant, and it might have bin ſubſcribed by the Judges at their return. And to avoid the like Error hereafter, the Court ſent Juſtice *Whitlock* to the Lord *Treaſurer*, to let him know that Mr. *Selden* never looked after any of the Court, but ſought a new and irregular way to be removed without them. The Lord *Treaſurer* made a very honourable Anſwer, That he would not move the King for Mr. *Selden* to be removed by this means, until he ſent him word, on his credit, that it was a legal way; and told that Judg, that Mr. *Selden* *Octob. Michaelmaſs* Term, *John Selden's* Caſe.

Judges Exceptions to the Warrant ſent by the Lord Treaſurer.

An. 1630. was at the Judges diſpoſe to remove back when they would, for it was not the King's meaning to do any thing contrary to the Order of the Court, or their formal Proceedings: So Writs were ſent this *Michaelmaſs* Term to remove the four Priſoners back again to the *Marſhalſey*.

Acts of Bounty projected to be done by Dr. *Laud* Biſhop of *London*, and moſt of them performed in his Life-time.

In the Month of *November*, the enſuing Acts of Bounty were projected to be done by Dr. *Laud* Biſhop of *London*, and many of them performed in his Life-time.

1. TO build at St. *John's* in *Oxford*, wherein he was bred up, for the good and ſafety of that College.

2. To overthrow the Feoffments, dangerous both to Church and State, going under the ſpecious pretence of buying in *Impropriations*.

3. To procure King *Charles* to give all Impropriations yet remaining in the Crown within the Realm of *Ireland*, to that poor Church.

4. To ſet upon the Repair of St. *Paul's* Church in *London*.

5. To collect and perfect the broken, croſſing and imperfect *Statutes* of the Univerſity of *Oxford*, which had lain in a confuſed heap ſome hundred Years.

6. To ſettle the *Statutes* of all the Cathedral Churches of the New Foundations, whoſe *Statutes* are imperfect, and not confirmed.

7. To annex for ever ſome ſetled *Commendams*; and thoſe, if it may be, *ſine Curâ*, on all the ſmall Biſhopricks, for *Briſtol*, *Peterborough*, St. *Aſaph*, *Cheſter*, and *Oxford*.

8. To find a way to increaſe the Stipends of poor Vicars.

9. To ſee the Tythes of *London* ſetled between the Clergy and the City.

10. To ſet up a Greek Preſs in *London* and *Oxford*, for printing the *Library-Manuſcripts*, and to get both Letters and Matrices.

11. To ſettle 80 *l.* a Year for ever out of Dr. *Fryer's* Land, (after the death of Dr. *John Fryer* the Son) upon the Fabrick of St. *Paul*, toward the repair, till that be finiſhed, and to keep it in good ſtate after.

12. To procure a large Charter for *Oxford*, to confirm their Ancient Priviledges, and obtain new for them, as large as thoſe of *Cambridg*, which they had got ſince *Henry* the 8*th*, and *Oxford* had not.

13. To open the great Square at *Oxford*, between St. *Maries* and the Schools, *Brazen-noſe*, and *All-Souls*.

14. To ſettle an Hoſpital of Land in *Reading*, of 100 *l.* a Year.

15. To Erect an *Arabick Lecture* in *Oxford*, at leaſt for his Life-time, his Eſtate as he ſuppoſed not being able for more, that this may lead the way, &c. The Lecture began to be read, *Auguſt* 10. 1636. and was ſetled for ever.

16. Then to ſettle the Impropriation of the Vicarage of *Cudſden*, to the Biſhop of *Oxford*. Wedneſday, *April* 19. 1637. and ſo the Houſe built by the new Biſhop of *Oxford*, Dr. *John Bancroft*, and ſetled for ever to that Biſhoprick.

17. To get a Book in Vellom fair written, containing the Records which are in the *Tower*, concerning the Clergy. This Book he got done at his own Charge, and left it in his Study at *Lambeth* for Poſterity, *June* 10. 1637. *ab anno* 20 *Ed.* 1. *ad an.* 14. *Ed.* 4.

18. To procure a new Charter for the College near *Dublin*, and a Body

Body of new *Statutes* made to rectify that Government. 6 *Caroli.*

19. A Charter for the Town of *Reading*, and a Mortmain of——

20. If he lived to ſee the Repair of St. *Paul's* near an end, to move his Majeſty for the like Grant from the *High Commiſſion*, for the buying in of Impropriations that he already had for St. *Pauls*, and then he hoped to buy in two a Year at leaſt.

Theſe things following the Biſhop perfected in his Life-time, according as he had deſign'd, *viz.*

His building of St. *John's* College.
The overthrow of *Feoffments.*
Setled Impropriations in *Ireland.*
Began the Repair of St. *Pauls.*
Regulated the Statutes of *Oxford.*
Setled the Statutes of the Cathedrals, and annexed *Commendams* to them.
Set up a Greek Preſs in *London.*
Obtain'd a large Charter for *Oxford.*
Setled an Hoſpital at *Reading.*
Setled an *Arabick Lecture* in *Oxford.*
Setled an Impropriation on *Cudſden.*
Obtain'd a Charter for the College near *Dublin*; and a Charter for the Town of *Reading.*

Againſt ſelling of Arms, Amunition, &c. to *Salvages.*

Conſideration being had of a Proclamation in King *James* his Time; whereby, among other things, the inſufferable Abuſes committed by diverſe Interlopers, Irregular Merchants, and diſobedient Fiſhermen and Mariners, who were prohibited to Trade with the *Salvages* of *New-England*; did barter away to theſe *Salvages*, Swords, Pikes, Muskets, Match, Powder, Shot, *&c.* with which they deſtroy'd the *Engliſh* who ſold thoſe Weapons to them. His Majeſty therefore by his Proclamation, bearing date the 5*th* of *December*, did then again prohibit ſuch kind of Trade with thoſe *Salvages* under great Penalties.

On the 5*th* of *December* came forth in Print, by publick Authority, *Articles of Peace*, Entercourſe, and Commerce, concluded in the Name of the moſt High and Mighty Kings, *Charles by the Grace of God, King of* Great Britain, France, *and* Ireland, *Defender of the Faith*, &c. And *Philip* the 4*th* King of *Spain*, &c. In a Treaty at *Madrid* the 5*th* day of *November* after the *Old Stile*, the Year of our Lord God 1630. This Peace was Proclaimed on *Sunday* the 27*th* of *November* with great ſolemnity, and two days after ſworn unto at the Chappel at *Whitehall*; the *King* and the *Spaniſh* Ambaſſador *Don Carlo Coloma* went into their ſeveral Retirements whilſt an *Anthem* was ſung, and whilſt the Dean, Dr. *Laud*, with three other Biſhops, went up to the Altar with the *Latin Bible*, upon which the King laid his Hand; Secretary *Cook* having read the Oath, the King kiſſed the Book, and ſigned the Articles; which he delivered up to the Ambaſſador, and ſo paſſed to the *Banqueting-Houſe* to a Princely Entertainment.

And as to this Peace, the King declares that it is found meet and expedient, upon weighty Conſiderations moved to his Majeſty by the inter-

An. 1630. intervention of ſome of his Friends, to lay aſide Hoſtility with the King of *Spain*, and ſo to remove by fair and poſſible means, the cauſe of the War, which hath bred interruption to the Amity betwixt the two Crowns; which his Majeſty doth accordingly make known to all his Loving People, that the ſaid Peace and Friendſhip being ſo eſtabliſhed, not only all Hoſtility and War is to ceaſe on both ſides from hence-forward, but alſo the former Trade and Commerce, as it ſtood in uſe and obſervance of the Treaty made by his Majeſties bleſſed Father, is reſtored and confirmed between the ſaid Kings, their Kingdoms, Territories, and Subjects, as well by Land and Sea, as Freſh-waters. The ſubſtance of the Articles are at large in the *Appendix*.

When this War was firſt begun with *Spain*, there was great hopes to have by force obliged that King to procure the Reſtitution of the *Palatinate*; but all that could be obtained after long Expence in War, was, That he would improve his utmoſt Intereſt in the Emperor, towards the Reſtitution of the *Prince Elector*.

On the 5*th* of *January*, his Majeſties Orders and Directions came forth publickly in print, together with a Commiſſion for the better Adminiſtration of Juſtice, and more perfect Information of his Majeſty, how, and by whom the Laws and Statutes tending to the relief of the Poor, the well ordering and training up of Youth in Trades, and the reformation of Diſorders, and diſordered Perſons, were executed throughout the Kingdom; which his Royal Majeſty commanded to be publiſhed and enquired of, by the Body of his Privy Council, whom he had made Principal Commiſſioners for that purpoſe; which Commiſſions, Orders, and Directions, are inſerted more fully in the *Appendix*.

It ſo happened, that at this time there was great fear of a *Dearth*, which the Lords of the Privy Council taking into ſerious conſideration, thought fit to write a Letter to the Lord Mayor and Aldermen of the City of *London*, requiring an anſwer to theſe particulars following.

1. *What number of Mouths are eſteemed to be in the City of* London, *and the Liberty?*
2. *What Proportion of Corn will ſuffice to feed that number by the Month?*
3. *What Places are provided for to conſerve that Corn?*
4. *When the City intends to make their Proviſion?*
5. *What courſe the City takes to have the Proviſion well conſerv'd againſt the time of Scarcity?*
6. *What ſtock of Mony they provide for that purpoſe? and who ſhall be the Providers?*

St. *Katherines Church* Conſecrated by Biſhop *Laud*.

St. *Katherine Creed-Church* being lately repaired, was ſuſpended from all Divine Service, Sermons, and Sacraments, till it were Conſecrated. Wherefore Dr. *Laud* Lord Biſhop of *London*, on the 16*th* of *January*, being the Lord's Day, came thither in the Morning to Conſecrate the ſame. Now becauſe great Exceptions were taken at the formality thereof, we will briefly relate the manner of the Conſecration, as alſo what the Biſhop ſaid in his juſtification, when he was afterwards queſtioned for the ſame in Parliament as an *Innovation*.

At

6 Caroli.

At the Biſhops approach to the Weſt door of the Church, ſome that were prepared for it, cryed with a loud voice, *Open, open ye everlaſting doors, that the King of Glory may enter in!* and preſently the doors were opened: And the Biſhop, with ſome Doctors, and many other principal Men, went in, and immediatly falling down upon his Knees, with his Eyes lifted up, and his Arms ſpread abroad, uttered theſe words: *This Place is holy, the Ground is holy, In the name of the Father, Son, and Holy-Ghoſt I pronounce it holy.*

Then he took up ſome of the duſt, and threw it up into the Air, ſeveral times in his going up towards the *Chancel*; when they approached near to the Rail and *Communion Table*, the Biſhop bowed towards it ſeveral times, and returning, they went round the Church in Proceſſion, ſaying the 100 Pſalm; after that the 19*th* Pſalm, and then ſaid a Form of Prayer, *Lord Jeſus Chriſt*, &c. and concluding, *We Conſecrate this Church, and ſeparate it unto thee, as holy Ground, not to be profaned any more to common uſe.*

After this the Biſhop being neer the *Communion Table*, and taking a written Book in his hand, pronounced Curſes upon thoſe that ſhould afterwards prophane that Holy Place, by Muſters of Souldiers, or keeping prophane Law Courts, or carrying Burdens through it, and at the end of every Curſe, he bowed towards the Eaſt, and ſaid, *Let all the People ſay, Amen.*

When the Curſes were ended, he pronounced a number of Bleſſings upon all thoſe that had any hand in Framing and Building of that Sacred and Beautiful Church, and thoſe that had given, and ſhould hereafter give any Challices, Plate, Ornaments, or Utenſils; and at the end of every Bleſſing, he bowed towards the Eaſt, ſaying, *Let all the People ſay, Amen.*

After this followed the *Sermon*; which being ended, the Biſhop conſecrated and adminiſtred the Sacrament, in manner following.

Ceremonies uſed by the Biſhop at the Conſecration of the Sacrament.

As he approached the *Communion-Table* he made many ſeveral lowly Bowings, and coming up to the ſide of the Table where the Bread and Wine were covered, he bowed ſeven times, and then after the reading of many Prayers, he came near the Bread, and gently lifted up the corner of the Napkin wherein the Bread was laid, and when he beheld the Bread he laid it down again, flew back a ſtep or two, bowed three ſeveral times towards it, then he drew near again, and opened the Napkin, and bowed as before.

Then he laid his hand on the Cup, which was full of Wine with a cover upon it, which he let go again, went back, and bowed thrice towards it, then he came near again, and lifting up the cover of the Cup looked into it, and ſeeing the Wine he let fall the cover again, retired back and bowed as before; then he received the Sacrament, and gave it to ſome principal Men; after which many Prayers being ſaid, the Solemnity of the Conſecration ended.

It is not inconvenient I hope to tranſgreſs in point of time, by acquainting the Reader that this matter was ſome years after objected againſt the Biſhop of *London* in *Parliament*, as an evidence of his inclination to introduce Popery, and theſe matters of Fact before recited were then proved before the Houſe of Lords; to which the Biſhop made a learned Defence, by endeavouring to juſtifie the Conſecration of Churches from the practice of *Moſes*, *Solomon*, *Hezekiah*, and other Princes of the *Jews*, in the time of the Ceremonial

An. 1630. nial Law. And that it is expreſſed in the *Old-Teſtament*, that the *Tabernacle*, with all the Veſſels and Ornaments thereunto belonging, were all ſolemnly Conſecrated by *Moſes*; and afterwards when the Temple was built, it was ſolemnly Dedicated and Conſecrated to God by King *Solomon*, and all his Princes and People; He alſo argued out of *Euſebius*, in the time of *Conſtantine* and other Chriſtian Princes, of the Antiquity of Conſecrating Churches, and then he deſcended more particularly to anſwer the Charge as to the Conſecration of *Creed*-Church.

It was teſtified (ſaith he) that I came thither in a pompous manner. *I deny it, it was only in a grave and ſeemly manner.* It is objected, that as ſoon as I came within the Church Door I fell down upon my Knees; *True, it was no more than my Duty, being an Oratory.* Moſes *and* Aaron *fell down on their Knees at the Door of the Tabernacle.* Hezekiah *and the People bowed and worſhipped, as I have proved at large in my Speech in the Star-Chamber. And, O come let us worſhip and fall down before the Lord our Maker, is the common Introitus in our own and other Liturgies.* It is objected, I pronounced the Place and Ground holy; *I did ſo, and it is an ordinary and legal Speech, there being a Relative, tho not an Inherent Holineſs in Churches dedicated to God's Service.* Whereas it was ſaid, I threw up duſt in the Air, *This I deny*, and where it was alledged that this was in imitation of the *Roman Pontifical*; that (ſaid he) is a miſtake: *for the Pontifical Preſcribes, (Cinis) Aſhes, not Duſt to be caſt abroad. For my Form of Conſecration, Biſhop* Andrews *made it, from whom I deſired a Copy, and had it, which I obſerved.* It was objected that the form of Prayer I uſed, is in the *Maſs-Book* and *Roman Pontifical.* It may be ſo, he replied, and many other very good Prayers are in it.

After the Biſhop had made his Defence, a Reply was made by a Member of the Houſe of Commons, appointed to manage the Evidence.

1. That *Moſes* had an expreſs Command from God himſelf to conſecrate the *Tabernacle*, with all the Veſſels thereof, by anointing them with Conſecrated Oil, *Exod.* 40. 10, 11, 12. they being Types of Chriſt to come: But we have no ſuch Command from God to Conſecrate Churches, Church-Yards, Chappels, Altars, Veſtments, which are no Types of Chriſt already come.

2. This Conſecration was made by *Moſes* the *Temporal Magiſtrate*, (not by *Aaron* the *High-Prieſt*) without any other Ceremony than meer *anointing* the Tabernacle and its Veſſels and Implements with *Oil*; therefore this was no Warrant for *Biſhop's* conſecrating Churches, Church-Yards, Chappels, Altars, Veſtments, with other Ceremonies, without any anointing them with Oyl.

3. This Conſecration was only *Temporary, Jewiſh, Ceremonial*, aboliſhed by Chriſt's death, *Col.* 2. 14. *&c.*

4. King *Solomon* did not Conſecrate the *Temple*, nor the Veſſels and Court thereof with Oil, as *Moſes* did the *Tabernacle*, but after he had brought the *Ark*, *Tabernacle*, and all the holy Veſſels into it, with Praiſes, Thankſgiving and Inſtruments of Muſick, and after the Cloud and Glory of the Lord had filled the Houſe, he made an Heavenly Prayer only in the midſt of the Court, not in the Temple, before all the Congregation of *Iſrael.*

1. That the moſt Holy Place was ſo ſtiled, tho never Conſecrated: ſo *Jeruſalem* is very frequently called the Holy City, *Mat.* 4.5. and 27.53. though

6 *Caroli.*

though never Conſecrated, and God told *Moſes, the place whereon thou ſtandeſt is holy ground*, Exod. 3. 5. though never Conſecrated by a Biſhop.

2. Our own Homilies inform us, That the Church is counted and called Holy, not of it ſelf, (nor yet for its Conſecration by a Biſhop) but becauſe God's People reſorting thither, are Holy, and exerciſe themſelves in holy and Heavenly things.

3. The Hearing and Preaching God's Word, Prayer and receiving the Sacraments therein are ſufficient of themſelves to ſanctifie, and make it Holy without any other Conſecration.

4. Sanctification in its own nature, is nothing elſe but a ſequeſtering of any thing from a common or ordinary uſe, to a Religious and ſacred purpoſe, and this may be done without a Biſhop's *Exorciſm* or Conjuration.

For his throwing up of Duſt, two Witneſſes expreſly depoſe it, which muſt over-ballance his bare Negation, and there is ſo little difference between Duſt and Aſhes, as they are uſually coupled together as *ſynonimous* in Scripture and Authors. That he took his Form from Biſhop *Andrews*, is only averred by himſelf, not proved by any witneſs; but that it agrees with that in the *Pontifical*, which we found in his Study even *in terminis*, is moſt clear, and therefore we cannot but preſume he derived it from thence: However if Biſhop *Andrews* imitated the *Pontifical*, and he Biſhop *Andrews*, the charge is much alike.

Sir Miles Hobart, *and* William Stroud *Eſq. their* Caſe.

Sir *Miles Hobart*, and *William Stroud* their Caſe about an Eſcape

ON the 23*d* of *January* the Attorny General exhibited two ſeveral Informations, the one againſt *William Stroud*, Eſq. the other againſt Sir *Miles Hobart*, Knight. The Charge againſt both of them therein, was for ſeveral Eſcapes out of the Priſon of the *Gatehouſe*: they both pleaded not guilty. And their Caſes appeared to be as followeth. The ſaid *William Stroud*, and Sir *Miles Hobart*, were by the King's Command committed to Priſon, for Miſdemeanours alledged againſt them, in their carriage in the Houſe of Commons at the laſt Parliament. Afterward in Trinity Term *Anno 6. Caroli*, both of them being by Order of this Court, and by a Warrant from the Attorney General to be removed unto the *Gatehouſe*; The *Warden* of the *Marſhalſey* (where they were before impriſoned) ſent the ſaid *Stroud* to the Keeper of the *Gatehouſe*, who received him into his Houſe lately built, and adjoyning to the Priſon of the *Gatehouſe*, but being no part thereof. After which receipt, the ſame night, he licenſed the ſaid *Stroud* to go with his Keeper unto his Chamber in *Grayes Inn*, and there to reſide. Sir *Miles Hobart* was alſo by the ſaid Warden of the *Marſhalſeys* delivered to the Keeper of the *Gatehouſe*, but being ſick, and abiding at his Chamber in *Fleetſtreet*, he could not be removed to the Priſon of the *Gatehouſe*, but there continued with his Keeper alſo. Afterwards the Sickneſs increaſing in *London*, they (with the Licenſe of the Keeper of the *Gatehouſe*, as it was proved) retired with their Under-keepers to their ſeveral Houſes in the Country for the ſpace of ſix weeks, until *Michaelmas Term* then next following, when by direction of the ſaid Keeper they returned to his Houſe; But in all that ſpace it could not be proved, that they were in any part of the old Priſon of the *Gatehouſe*, but in the new Building

An. 1630. Building thereto adjoining, unleſs when they once withdrew themſelves to a Cloſe-ſtool, which was placed near to the Parlor, and was part of the Old Priſon of the *Gatehouſe*. This Evidence was given to both the Juries, and both them returned their Verdicts ſeverally, *That they were not Guilty*, according to the Information exhibited againſt them. And in this Caſe it was debated at the Bar and Bench, Whether by this receipt and continuance in the New Houſe only, it may be ſaid, That they ever had bin impriſoned? And the Judges held, *That their voluntary retirement to the Cloſe-ſtool, made them to be Priſoners.* They reſolved alſo, That in this and all other Caſes, although a Priſoner departs from Priſon with his Keepers Licence, yet it is an Offence as well puniſhable in the Priſoner as in the Keeper. And *Calthrop* made this difference between Breach of Priſon and Eſcape; the firſt is *againſt the Goaler's will*; the other is *with his conſent, but in both the Priſoner is puniſhable*; whereunto the whole Court agreed. It was alſo reſolved, That the Priſon of the *King's Bench* is not any Local Priſon, confined only to one Place; and that every Place where any Perſon is reſtrained of his Liberty is a Priſon. As if one take Sanctuary and depart thence, he ſhall be ſaid to break Priſon.

Ireland Defective Titles.

The 14*th* day of *March*, his Majeſty iſſued out a Proclamation, declaring his Royal Grace to confirm to his Subjects of the Realm of *Ireland* their Defective Titles, and to eſtabliſh their Eſtates and Poſſeſſions by his Commiſſion under the Great Seal of *England*, as the ſtrongeſt motive to quiet them, to make them ſubject to the Laws, to conform themſelves to Induſtry, and to make them opulent. See this at large in the *Appendix*.

An Account of the Bills of Mortality for 3 great Plagues.

The total of all the Burials for this Year 1630 in *London*, and the Liberties, of all Diſeaſes 10554, whereof of the Plague 1317.

There died in the firſt Year of King *Charles* the Firſt, *Anno* 1625. in *London* and the Liberties, of all Diſeaſes 54082, whereof of the Plague 35428.

And in the Year 1665, there died 79000 Perſons, whereof of the Plague 65890.

The Ld. *Keeper*'s care to anſwer Petitioners.

It was the uſual cuſtom of *Thomas* Lord *Coventry*, Lord *Keeper* of the Great Seal of *England*, diligently to obſerve the ſitting Days of the Privy-Council; and his courſe was ever in the firſt place to hear all Petitions read; and when there had bin any Hearing upon them, or Anſwers given to them without hearing, he commanded the Clerk of the Council, to inquire if there were any more Petitions; and if none, then he uſed to riſe and leave the Council ſitting, and not to ſtay the Debate of Matters of State, or Foreign Affairs; and were the Petitioner never ſo mean, his Petition was certainly read, if the Lord *Keeper* was there.

A complaint by the Fiſhermen of *Barkham*.

An Example of which you have in the Fiſhermen of *Barkham* in *Eſſex*, who made their complaint againſt Captain *John Smith*, Captain of the *South Blockhouſe*; and Captain *John Duffeild* Captain of the Ship called the *Seven Stars*, riding at *Medway*, for divers wrongs and extortions of Fees, in taking Mony of the Petitioners, under pretence of requiring their Bond, and the like: Whereupon it was this day Ordered, That the ſaid Fiſhermen ſhould hereafter bring Certificates

ca tes and Bonds ready made, unto Sir *Thomas Fanſhaw* Knight, dwellin g in *Eſſex*, and before him ſhall Sign, Seal, and deliver the ſame to his Majeſties uſe, and leaving the ſaid Bond with the foreſaid Captain, were to proceed in their Vocation of *Fiſhing*, without any other Bond to be required of them after, or any trouble or moleſtation touching the ſame, notwithſtanding any reſtraint; when by the ſaid Reſtraint it is permitted to them to proceed in their Fiſhing, giving Bond not to paſs beyond Seas. *6 Caroli.*

Titles of PROCLAMATIONS, &c.

Pro Anno 1631.

A Proclamation for the better ordering of thoſe who repair to the Court, for the Cure of the Diſeaſe, called the *King's Evil.* *Whitehall*, April 6.

A Proclamation for the preventing of the Exportation of Woolls, Wooll-fells, Yarn, Fullers-Earth, and Wood-Aſhes, and of Hides both Tan'd and Raw, out of this Kingdom. *Whitehall*, April 17.

A Proclamation for quickning the Laws made for the Relief of the Poor, and the ſuppreſſing, puniſhing, and ſetling of the ſturdy Rogues and Vagabonds. *Whitehall*, April 23.

A Proclamation for the reſtraining of the Importation of Iron-Wier into this Kingdom, and for the ſupport of that Manufacture. *Whitehall*, May 7.

A Proclamation declaring his Majeſties Royal Grace and Pleaſure, to confirm to his Subjects their Defective Titles, Eſtates, and Poſſeſſions (as well by colour of former Grants, as without any Grant from the Crown) by his Commiſſion lately renewed and granted to that purpoſe. *Whitehall*, May 27.

A Proclamation for the better diſcovery and prevention of Burglaries, Robberies, and other Frauds and Abuſes; and for the ſuppreſſing of all ſecret and unlawful practices of Retailing Brokers, and others which may occaſion the ſame. *Whitehall*, June 5.

A Proclamation prohibiting the Exportation of Corn and Grain. *Whitehall*, June 13.

A Proclamation for the ſuppreſſing of Felons and Out-laws, their Aiders and Abettors, by bringing them to be anſwerable to the ſeveral Laws of the ſeveral Realms of *England* and *Scotland.* St. *James's* June 30.

A Proclamation for the eaſe of the Subjects in making their Compoſitions for not receiving the Order of Knighthood according to the Law. St. *James's* July 6.

A Proclamation concerning New Buildings in and about the City of *London*; and againſt the dividing of Houſes into ſeveral Dwellings, and receiving and harbouring of Inmates. *Nonſuch*, July 16.

An. 1629.

Northwich, Aug. 1. A Proclamation prohibiting the keeping of *Bartholomew*-Fair, and *Sturbridg*-Fair, and our *Lady*-Fair in *Southwark*.

Farnham, Aug. 9. A Proclamation againſt the falſe dying of Silk.

Canterbury, Aug. 19. A Licence for a Collection throughout *England* and *Wales*, towards the Maintenance of the Exiled Miniſters of the *Palatinate*.

Wantſted, Septemb. 9. A Proclamation for adjourning the Term.

Theobalds, Septemb. 17. A further Proclamation for the ſuppreſſing and puniſhing of Rogues and Vagabonds, and relief of the Poor, according to the Law.

Hampton-Court, Sept. 28. A Proclamation for preventing the Dearth of Corn and Victual.

Whitehall, Novemb. 11. A Huy and Cry againſt Dr. *Leighton*.

Whitehall, Novemb. 24. A Proclamation forbidding the diſorderly Trading with the *Salvages* in *New-England* in *America*; eſpecially the furniſhing the Natives in thoſe and other parts of *America*, by the Engliſh, with Weapons, and Habiliments of War.

Weſtminſter, Decemb. 5. A Proclamation for Peace with *Spain*.

Whitehall, Jan. 6. A Proclamation concerning Tobacco.

Whitehall, March 14. A Proclamation declaring his Majeſties Royal Grace, to confirm to his Subjects of the Realm of *Ireland*, their Defective Titles, and to eſtabliſh their Eſtates and Poſſeſſions by his Commiſſion under his Great Seal of *England*.

Hiſtorical

Hiſtorical Collections

For the Year 1631.

Whereas his Majeſty hath bin graciouſly pleaſed to give permiſſion to Our very good Lord, the Lord Marques of Hamilton, for the levying and tranſporting of ſix thouſand Engliſh Voluntiers to be employed in the Service of the King of Sweden. And Whereas Captain Coningsby of the Regiment of Sir James Hamilton, hath deſired a Commiſſion for the raiſing of the Company to go under his Command, conſiſting of 150, within the Counties of Hereford, Kent, and Middleſex; Theſe are therefore, according to his Majeſties expreſs pleaſure on that behalf, to ſignify as well to your Lordſhips his Majeſties Lieutenants of the ſaid Counties, and to your Deputy Lieutenants; as well alſo to all Mayors, Sheriffs, Juſtices of the Peace, and to all other his Majeſties head Officers and loving Subjects, to whom it ſhall appertain, That We do hereby grant Licenſe unto the ſaid Captain Coningsby, to take up and entertain, by beating of Drum or otherwiſe, the ſaid number of 150 Voluntiers within the Counties and Places aforeſaid, praying and requiring your Lordſhips, &c. to afford the ſaid Captain and his Officers your beſt aſſiſtance and furtherance on that behalf, as alſo in the orderly conduct of them, without Damage, Charge, or Offence to the Country, from Place to Place within your ſeveral Juriſdictions, unto the Place or Port of their embarking.

A Commiſſion granted to the Marqueſs of *Hamilton*'s Officers to raiſe their Men.

The like Commiſſions were granted to the reſt of the chief Commanders and Officers.

At this time the King granted more Commiſſions for raiſing 6000 Men for the Service of the King of *Sweden*; a Liſt of which Officers, and the Counties wherein they were to raiſe the Men, followeth.

An. 1631.

The names of the chief Officers and Captains of three Regiments hereafter named, with the ſeveral Counties wherein each Company was to be levied.

Sir *Jacob Aſhley* Colonel.

Captains Names.	*Counties.*
Captain *Bullard*, the Colonels Company, to raiſe his Men in the Counties of	*Lincoln*, *Nottingham*, *Surrey*.
Lieutenant Colonel *Talbot*, to raiſe his Men in the Counties of	*Eſſex*, *Suſſex*, *Oxon*, *Stafford*, *Salop*.
Serjeant Major *John Chamberlain*, to raiſe his Men in the Counties of	*Briſtol*, *Somerſet*, *Wilts*, *Hertford*, *Bedford*, *Southampton*.
Captain *Earnly*, to raiſe his Men in the Counties of	*Wilts*, *Somerſet*, *Northampton*.
Capt. *David* to raiſe his Men in the Counties of	*Carmarthen*, *Cardigan*, *Pembrook*, *Salop*, *Warwick*, *Stafford*.
Capt. *Aſhly*, To raiſe his Men in the Counties of	*Norfolk*, *Suffolk*, *Cambridg*, *Oxon*, *Berks*.
Capt. *Wroughton*, To raiſe his Men in the Counties of	*Glouceſter*, *Wilts*, *Oxon*, *Stafford*.
Capt. *Goodrick*, To raiſe his Men in the Counties of	*Northampton*, *Huntingdon*, *Cambridg*.

Capt.

7 *Caroli.*

Captains Names.	*Counties.*
Capt. *Howel.* To raiſe his Men in the Counties of	*Glamorgan*, *Monmouth*, *Kent*, *Stafford.*
Capt. *Crofts*, To raiſe his Men in the Counties of	*Suffolk*, *Eſſex*, *Bedford*, *Somerſet*, *Glouceſter.*

There was added to every of the Warrants of Sir *Jacob Aſhley*'s Regiment, the County of *Middleſex*, the Cities of *London* and *Weſtminſter.*

Sir *James Hamilton* Colonel.

Captain *Coningsby*, the Colonels Company, To raiſe his Men in the Counties of	*Hertford*, *Kent*, *Middleſex.*
Lieutenant Colonel Sir *William* Balantine*, To raiſe his Men in the Counties of	*Brecknock*, *Cardigan*, *Radnor*, *Pembrook.*
Serjeant Major *Arthur Brett*, To raiſe his Men in the Counties of	*Suſſex*, *Eſſex*, *Middleſex*, *Dorſet*, *Somerſet*, *Northfolk*, *Kent.*
Capt. *Arthur Long*, To raiſe his Men in the Counties of	*Middleſex*, *Surrey.*
Capt. *Pawlet*, To raiſe his Men in the Counties of	*Southampton*, *Wilts*, *Somerſet*, *Dorſet.*
Capt. *Hamond*, To raiſe his Men in the Counties of	*Surrey*, *Berks*, *Kent*, *Norfolk*, *Oxford.*

* If not *Valentine.*

Capt.

An. 1631.

Captains Names.	Counties.
Capt. *Cary*, To raiſe his Men in the Counties of	*Southampton*, *Hereford*, *Glouceſter*.
Capt. *Breton*, To raiſe his Men in the Counties of	*Southampton*, *Dorſet*, *Suſſex*.
Capt. *John Bell*, To raiſe his Men in the Counties of	*Hertford*, *Northampton*, *Warwick*, *Oxford*, *Middleſex*.
Capt. *Vavaſor*, To raiſe his Men in the Counties of	*Warwick*, *Stafford*, *Salop*, *Cheſter*.
Capt. *Terwitt*, To raiſe his Men in the Counties of	*Lincoln*, *Hertford*, *Glouceſter*, *Middleſex*.
Capt. *Fieldings*, To raiſe his Men in the Counties of	*Warwick*, *Northampton*, *Worceſter*, *Kent*.

The like Warrant for Capt. *William Sterne*, to raiſe his Company of 150, within the Counties of *Cambridg*, *Huntingdon*, *Eſſex*, *Suffolk*.

Sir *James Ramſey* Colonel.

CAptain *Bruce*, the Colonel's Company, To raiſe his Men in the Counties of	*Middleſex*, *Eſſex*, *Kent*, *Hertford*.
Lieutenant Colonel *Goring*, To raiſe his Men in the Counties of	*Suſſex*, *Southampton*, *Kent*, *Leiceſter*.
Serjeant Major *Fowler*, To raiſe his Men in the Counties of	*Worceſter*, *Salop*, *Wilts*, *Berks*, *Middleſex*.

Capt.

Captains Names.	*Counties.*
Capt. *Roger Powel*, To raiſe his Men in the Counties of	*Glouceſter*, *Hereford*, *Monmouth*, *Brecknock*, *Glamorgan*, *Carmarthen*, *Radnor*, *Montgomery*, *Salop*.
Capt. *Talbot*, To raiſe his Men in the Counties of	*Salop*, *Stafford*, *Worceſter*, *Glouceſter*, *Wilts*, *Oxford*, *Berks*.
Capt. *John Powel*, To raiſe his Men in the Counties of	*Glouceſter*, *Hereford*, *Monmouth*, *Brecknock*, *Glamorgan*, *Carmarthen*, *Radnor*, *Montgomery*, *Berks*.
Capt. *Geo. Clifford*, To raiſe his Men in the Counties of	*York*, *Nottingham*, *Lincoln*, *Weſtmorland*, *Cumberland*, *Carliſle*.
Capt. *Douglaſs*, To raiſe his Men in the Counties of	*Surrey*, *Middleſex*, *Glouceſter*.

An. 1631.

Mr. *Bellaſis* ſummoned to attend the Council,

HEnry *Ballaſis*, Son and Heir of the Lord *Faulconberg*, was on the 6th of *April* called before the Council Board, to anſwer his contemptive carriage towards the Lord *Wentworth*, Lord *Preſident of the North*, and one of his Majeſties Honble Privy Council. The Charge given againſt him was, 'That he had come into the Room wherein 'the ſaid Lord Preſident was at a ſolemn meeting, without ſhewing 'any particular reverence to the ſaid Lord *Preſident*, as in civility and 'duty he ought to have done. And that afterwards his Lordſhip go-

For ſeeming to affront the L. Preſident of the North.

'ing out of the ſaid Room with his Hat off, the Kings Mace-Bearer 'before him, and all the reſt of the company uncovered, he the ſaid 'Mr. *Ballaſis* ſtood with his Hat on his head, looking full upon his 'Lordſhip without ſtirring his ſaid Hat, or uſing any other Reverence 'or Civility to the ſaid Lord Preſident.

His Anſwer.

'To which the ſaid Mr. *Bellaſis* made anſwer by a ſolemn and deep 'Proteſtation, That he came into the Room as he ſhall do into all 'other places, fully purpoſed and ready to perform that Reſpect and 'Reverence to the Lord Vicount *Wentworth*, which he acknowledged 'to be due to the place he holds under his Majeſty; And the reaſon 'why he did not put off his Hat to his Lordſhip going out of the 'Room was, that his Face being turned about the other way, talking 'with *Ferdinando* Lord *Fairfax*, his Lordſhip was paſt before he 'was aware thereof; that otherwiſe he would have put off his Hat, 'and given that Reverence to his Lordſhip: Proteſting again deep-'ly, that he came with no intent into the Room to offer any neglect 'or diſregard to the ſaid Lord *Preſident*. Whereupon he was com-manded to withdraw, and being commanded to kneel, did but ſeem-ingly do it. Yet by reaſon Mr. *Bellaſis* was a young Gentleman, and that he would hereafter behave himſelf with more Civility and Hu-mility towards his Majeſty's *Preſident*, therefore did only order that the ſaid Mr. *Bellaſis*, as he hath now made this Profeſſion before their Lordſhips, ſo ſhould he alſo under-write the ſame with his own Hand, together with an Acknowledgment, that he is ſorry he gave ſuch oc-caſion of Offence and Scandal to the ſaid Lord *Wentworth*, which was accordingly drawn up and tendered to him: but Mr. *Bellaſis*

His Commit-ment.

refuſing to ſubmit to it and obey, was by their Lordſhips committed to the *Gatehouſe*.

Mr. *Bellaſis* after a months Impriſonment, was by the Lords of the Council called in again the 6th of *May*, and ſeemed willing to ſubſcribe the Acknowledgment: 'But ſaid he hoped the Submiſſion was under-'ſtood to have relation to the Place, and not to the Perſon of the Lord *Preſident*; and being thereupon commanded to withdraw, his Friends preſently prevailing with him to ſubmit, which being ſignified to their Lordſhips, he was called in again, and ſubmitted to obey their Commands, and was thereupon ſet at Liberty.

His Submiſſi-on and Re-leaſment.

April 10. 1631 A Commiſſion for Repairing of St. *Pauls*.

The Devotion of thoſe times undertook a vaſt and expenſive Work, the repairing of the Cathedral Church of St. *Paul*'s in *London*. To which end a Commiſſion under the great Seal was awarded to the Arch-Biſhops of *Canterbury* and *York*, the Biſhops of *London* and *Wincheſter*, to all the Lords of the Council, and all the prime Mini-ſters of State, to the Lords *Chief-Juſtices* of the Courts at *Weſtmin-ſter*, and to the Lord Mayor, divers Aldermen, and the Chamberlain of the City of *London*, and to the Dean, and Reſidentiaries of that Cathedral.

'His

7 *Caroli.*

'His Majesty therein Declaring; that he had taken into his serious 'and Princely Consideration the great decays of that Building, the 'same being the goodliest Monument, and most eminent Church in all 'his Dominions, and a principal Ornament of the Royal City; that in 'respect of his Zeal to God's Glory, and for the Honour of his Go- 'vernment, he had an earnest desire and purpose to provide for the 'Repairing and Upholding of that Magnificent Structure, and re- 'storing the same to its antient Beauty and Glory, according to the 'pious intention of his Royal Father, who granted a Commission to 'begin and set forward that great and Honorable Work. And duly 'weighing, that as this chargeable Fabrick in the first founding there- 'of, could not but require many Years of time, and large supplies 'of publick Charity; So the substantial Repairing and Adorning 'thereof is not to be effected out of any Rents, or Revenues here- 'tofore pretended to have been given to that use, but will require a 'stock of Money and Materials to begin the Work, and a constant 'yearly supply to bring it to an end. Wherefore it was his Majesty's 'will and pleasure, that all Monies to be raised or recovered for this 'Work, should be paid into the Chamber of *London*, as the fittest and 'safest *Chest* whereinto the same can be put, and the Materials which 'already are or shall be brought in, shall be laid in *Store-yards*, Houses, 'and Places, by Officers appointed for that purpose. And the Bishop 'of *London* was authorised to keep a *Register*, wherein to take the 'several Subscriptions of the *Nobility*, *Bishops*, *Judges*, *Serjeants* and '*Counsellors at Law*, Officers and others of Quality and Ability who 'shall willingly contribute. The *Judges* of the Prerogative Courts of 'both Provinces, and the *Vicars General*, and the Officials of the se- 'veral Bishopricks of the *Kingdom*, were commanded to take special 'care, that out of such Monies as shall fall into their power upon the 'Deceases of Persons intestate, to be distributed for pious uses, some 'convenient proportion thereof be assigned to the supply of this 'Charge. And the *Letters Patents*, for the general Contribution of all 'Subjects in the *Kingdom*, were to be drawn in a more special man- 'ner, according to the extraordinary nature of this Case. Also the 'Commissioners had Authority for taking of an exact Survey of the 'particular decays of the Church, and calculating the Charge there- 'of, for the discovering of all such Legacies, Gifts and Sums of Mo- 'ney as were given, or intended, for the Maintaining, Repairing, 'and Adorning thereof; and for Advising and Agreeing upon the 'Forms of *Letters Patents* for Publick Collections throughout *England* 'and *Wales*; and for the orderly bringing in of all such Moneys as 'should be Collected, Raised, or Recovered for this Public Use, and 'of all Materials thereunto belonging, and for the well-disposing 'thereof; and for making of meet Orders and Constitutions for the 'Preservation of that *Cathedral*, and suppressing and preventing all 'present and future Annoiances, Purprestures and Encroachments, 'which tend to the Damage or Disgrace thereof. And that the Pro- 'ceedings herein may be firm and inviolable, and remain in perpetual 'memory, this Injunction was added, *That a Certificate thereof be made* '*into the Court of Chancery, there to remain on Record.*

A Register appointed for the Subscription of Benefactors.

According to the directions in this Commission, *Briefs* for Contributions were issued forth under the *Great Seal*, in different manners, according

Briefs for Contribution issued forth for that effect.

An. 1631. according to the different condition of the places unto which they were directed. Reſolutions were taken by the Lords *Committees*, that 'once a Year a Certificate be made of the Mony given, and of the 'Donors names; and that the Work ſhould not begin till there were '10000 *l.* in Bank; and when the Scaffolds were up, and the Work 'begun; that two or three Cheſts ſhould be ſet in the Church, in 'convenient places, for receiving the Benevolencies of well diſpoſed 'Perſons.

Some Perſons remiſs in executing them.

And where-ever there was found ſlackneſs in raiſing or collecting of Monies in this behalf; Perſons of Wealth or Authority in their Country, were to be quickened by *Letters Monitory* ſent from the Council Table. Sir *Francis Knowls* and Sir *Thomas Vachel*, Juſtices of the Peace in *Berks*, received ſuch Letters, wherein they were checked for delaying to publiſh his Majeſties Commiſſion, and forbearing to expreſs their own Liberalities, and their good inclinations to ſo pious a Work, which might be a means to invite others by their good example; and were injoyned, for the redeeming of opportunities already let ſlip, to redouble their diligence, and to put the Commiſſion in execution by the beſt ways and means they could; and to return an exact Accompt of the Monies given by themſelves and others; that the King being therewith acquainted, may diſtinguiſh between ſuch as are forward and well-affected, and ſuch as are ſlack and remiſs in doing God and him Service.

Reſolutions taken by the Lords Committees for the Buſineſs of the Cathedral Church of St. Paul.

1. That once a Year Certificates be made of the Monies given, and the Donors Names.

2. That a Clerk of the Work be choſen, and a Pay-maſter, and a Purveyer.

3. The Work not to begin till there be Ten thouſand pounds in Bank. That when the Scaffolds are up, and the Work begun, two or three Cheſts be ſet within the Church, in ſuch places as ſhall be thought fit, for receiving the Benevolences of well-diſpoſed Perſons to the ſaid Work.

Moreover, The Privy-Council being informed by ſundry Hands, of a long Abuſe in that Church, which might give an Impediment to Mens Liberal Offerings, thought fit to make this Order on the 18th of *January*.

Abuſes to be reformed in S. *Pauls* Church.

'THe Council Board by ſpecial Direction and Commiſſion from his 'Majeſty, taking into conſideration the ways and means for the 'Reparation of the Cathedral Church of St. *Paul's*, were informed at 'ſundry hands, of a long continued abuſe of the place, which might 'give a great impediment to Mens liberal Offerings to ſo pious a 'Work, if care were not taken, as well for the Religious and *decent* '*uſe of the inſide, as repairing of the outſide.* The offence that is taken 'as well by Forreigners, as thoſe of our own Nation, is, *that in time* 'of *Divine Service*, while *the upper part of the Church is uſed for Pray-* '*ing and Preaching, the nether part of the Church is uſed as an Exchange* '*for Men to meet in, to walk, talk and diſcourſe of all things*; and the

'Church

7 *Caroli.*

'Church it ſelf, though by ſituation it ſtands convenient for Paſſage 'to and from all parts of the City; yet by that liberty is ſo far pro-'faned, as it is uſed like a Street for carriage through of all Burthens, 'Proviſions and neceſſaries Men have to uſe, or paſs from place to 'place; whereat good Men are much ſcandalized. Their Lordſhips 'finding this to be ſo unfit (the Dedication of that place conſidered) 'beſides the coldneſs it may make in Men, otherwiſe well affected 'to this Work, if the better part be not cared for, as well as the 'material Work provided for, have thought fit to declare themſelves 'thus far, to the *Dean* and *Chapter* of that Church, that they thereupon 'may ſeriouſly enter into Conſideration how this Abuſe may be re-'formed, and propound to the Board a fit Expedient. Their Lord-'ſhips for their parts offer this unto the ſaid *Dean* and *Chapter*; That in 'time of Divine Service, Prayers, or Preaching none ſhould be ſuf-'fered to be walking or talking in the Church, or nether *Iles* thereof; 'And at no time to have any part of the ſaid Church uſed *as a through-'fare*, or paſſage for Burthens, Proviſions, or other common neceſſaries 'to be carried through the Church, but for all thoſe things to take the 'common way of the Streets. What more or other things the *Dean* and '*Chapter* ſhall find fit to add, they are prayed and required to repre-'ſent unto the *Board* with all conveniency, that ſuch courſe may be 'therein taken as ſhall be fit, and this pious and worthy Work encou-'raged by all the means that may be.

This Order was confirmed by his Majeſty, and publiſhed in print, as followeth.

Purſuant to the reformation of Diſorders in Cathedral Churches, particularly that of St *Paul* in *London* lately begun, his Majeſty gave forth ſpecial Commands and Orders in the terms following.

I.

Jun. 25. 1631. Orders againſt walking in St. *Paul's.*

'That no Man of what quality ſoever ſhall preſume to walk in the 'Iles of the Quire, or in the Body or Iles of the Church, during the 'time of Divine Service, or the Celebration of the Bleſſed Sacrament, 'or Sermons, or any part of them, neither do any thing that may 'diſturb the Service of the Church, or diminiſh the Honour due to 'ſo holy a place.

II.

'That no Man preſume to profane the Church by the carriage of 'Burthens or Baskets, or any Portage whatſoever.

III.

'That all Parents and Maſters of Families do ſtrictly forbid their 'Children and Servants to play at any time in the Church, or any 'way miſdemean themſelves in that place, in time of Divine Service, or 'otherwiſe: And if any Children or Servants ſhall be found ſo doing, 'beſides the puniſhment of the Delinquents, their Parents and Ma-'ſters ſhall be ſubject to ſuch Cenſures and Puniſhments, as is thought 'fit to be inflicted.

'Theſe *Orders* by command of his Majeſty are now publiſhed, to the 'intent that no Man may hereafter pretend Ignorance for his excuſe in 'any of them.

Houſes about St. *Paul's* to be demoliſhed.

At this time certain Houſes and Shops adjoining to St. *Paul's* were thought fit to be demoliſhed, for the more commodious Repairing, and better Ornament of that *Cathedral*; Whereupon choice was made

An. 1631. of a certain number of the Commiſſioners to Treat and Compound with all perſons intereſted in ſuch Buildings, having a more eſpecial regard to Widows, Orphans, and the poorer ſort. And it was ordered, That if the Owners conformed themſelves, by demoliſhing their Houſes, by a limited time, they ſhould receive ſuch ſatisfaction, according to their ſeveral Intereſts, as their Lordſhips ſhould think reaſonable; Otherwiſe, the Sheriff of *London* was requir'd to ſee the ſame performed; it being not thought fit, that the Obſtinacy of thoſe Perſons ſhould hinder ſo conſiderable a Work. Hereupon Compoſitions were made with the Owners, for certain ſumms of Mony, to be paid out of the Monies deſign'd toward the repairing this *Cathedral*, together with the Materials of the demoliſhed Houſes. And the Biſhop of *London*, the *Dean* and *Chapter* of St. *Paul's*, and the Warden of the Petty-Canons were appointed to accept the Surrender of the Leaſes ſo compounded for, and to deliver them to the Clerk of the Privy-Council, to be put into the *Council-Cheſt*, there to remain in ſafe keeping.

And becauſe the Surveiors brought in, That the greateſt part of the Houſes in the Pariſhes of St. *Faith's* and St. *Gregories*, are within the Wall of St. *Paul's* Church-yard, and conſequently built, as was alledged, to the Nuiſance and Detriment of the Church, and might in reaſon and juſtice be ordered to be pull'd down, as well as the other Houſes that abutted upon the Church Wall; Their Lordſhips ordered that the Sub-Committees ſhould call before them ſuch Owners and Inhabitants as have their Houſes within thoſe Pariſhes, and deal with them effectually for ſome Annual Contribution, or ſum of Money, whereby Houſes and Rents might be ſetled to the uſe of the *Parſon* of St. *Gregories*, and of the *Almoner* and *Choriſters*, to make ſome recompence for the Loſs which would fall upon them by the taking down of their dwelling Houſes, and ſome other Tenements belonging to their Maintenance.

And whereas the *Dean*, and the *Petty Canons* of St. *Paul's* have a Quarter built on the North-ſide of the Church, in manner of a College, for their Habitation; which if wholly employ'd to the uſe of the Church, was conceiv'd convenient enough, both for them and the *Parſon* of St. *Gregories*, and the *Maſter* and *Choriſters*: Their Lordſhips ordered, that the Sub-Committees ſhould ſend for the *Dean* and *Petty Canons*, and upon their Examination and View of the Place, diſcover and certifie the *Board* what Tenants do inhabit, and what Inmates are lodged there.

Concerning St. *Gregories* Church by St. *Paul's*.

The Pariſhioners of St. *Gregorie's* having begun to make a Vault for the Burial of the Dead, from the South-ſide of St. *Paul's* towards the ſtreet, near the *Lollards Tower*, fifty foot in length, and fourteeen in breadth, it being found that in digging they bared three ſettings off from the Southſide of the Cathedral; and upon the Eaſt, and Southſide of the *Lollards-Tower*, five foot deep, from the firſt ſetting off above ground; The Lords of the Council ordered, leſt the Foundation of this great Building ſhould be under-wrought, that the Vault ſhould be ſhortned, ſo as neither the Griſes be bared, nor the Walls of the Church, or Tower touched; and that a ſeparation-Wall be made, and the place within be thorowly fill'd up with Earth.

Afterwards the Wall of St. *Gregorie's* Church was ordered by the Lords of the Privy Council to be pull'd down, as an impediment to the

the Work, and unſeemly to the view of the Cathedral; and the rather, becauſe it was within another Church-yard already conſecrated for Burial. 7 *Caroli.*

At laſt St. *Gregory*'s Church it ſelf, being found a great impediment to the Work in hand, ſeveral ſtrict Orders were made to the Pariſhioners to take it down, and remove it to ſome other place. The Pariſhioners alleadging inability to undergo the Charge, petition'd the Lords of the Council, that they might be freed from that Injunction; but their Lordſhips finding no cauſe to vary, did ratify the former Orders. And as touching the difficulty of finding out and procuring a fit place for the erecting of a New Church within that Pariſh; and the pretended diſability to undergo the Charge of Building it, they leave it to the Pariſhioners Election, Whether they will build the ſame, or be aſſign'd to any one or more Pariſhes, in ſuch manner as the Lord Biſhop of *London* ſhall think fit and direct, and ſo remain till a New Church be erected.

After this they of St. *Gregory*'s, being in number above 3000 Souls, were aſſigned to the Weſt end of *Chriſt-Church*; but thoſe of *Chriſt-Church* refuſing to admit them without Compoſition, or hard Conditions, it was ordered by the Privy-Council, that they ſhould freely aſſemble there without any farther burthen.

The Trial of *Mervin* Lord *Audley*.

UPon the 25*th* of *April* began the Arraignment and Condemnation of *Mervin* Lord *Audley*, Earl of *Caſtle-Haven* in *Ireland*; who being accuſed of ſeveral Crimes and Enormities, now brought to light, the King thought it meet that he ſhould have a publick and fair Trial. And in order thereunto, the Lord *Keeper* wrote to ſome of the Judges to haſten to Town, after their Circuits were over, to be preſent at his Trial, which was to be in *Weſtminſter-Hall* before the beginning of *Eaſter Term*, to be aſſiſting to the Lord High Steward.

The Judges that were required to be preſent were theſe.

Sir *Nicholas Hyde*, Lord Chief Juſtice of the *King's Bench.*
Sir *Thomas Richardſon*, Ld Chief Juſtice of the *Common Pleas.*
Sir *Humphry Davenport*, Lord Chief Baron of the *Exchequer.*
Baron *Denham.*
Judg *Jones.*
Judg *Hutton.*
Judg *Whitlock.*
Judg *Cook.*

In this Caſe there were three Indictments found at *Salisbury*, the *Wedneſday* preceding *Eaſter*, before the Lord Chief Juſtice *Hide*, the Lord Chief Juſtice *Richardſon*, and Baron *Denham*, Juſtices of Aſſiſe for that Circuit, and ſpecial Commiſſioners in this Caſe. The one Indictment was for a *Rape* upon his own Wife, for holding her by force, whilſt one of his Minions, forcibly and againſt her Will, had Carnal knowledg of her; ſo that he was Indicted as *præſens*, *auxilians*, *confortans*, and therefore a Principal. The other two Indictments were for *Buggery* with a Man.

On *Friday* morning before the Trial, the Judges being ſent for, all

An. 1631. Judges met at *Serjeants-Inn* about the Earl of *Caſtle-Havon*.

all but *Denham* (being met at *Serjeants-Inn Hall* in *Fleetſtreet*) theſe Queſtions were propoſed unto them by Sir *Robert Heath* the King's Attorney General; A memorial of which, a learned * Judg, one of the eight before mentioned, ſet down in writing to the effect following.

* Said to be Judg *Whitlock*.

Queſtions propounded to the Judges, and anſwered.

1. *Whether a Peer of the Realm may wave his Trial by Peers, and plead he will be tried by God and the Country?*

Anſwer. He may not. For his Trial by Peers is no Priviledg, but the Law, declared by *Magna Charta*; and if he will not plead to Trial by his Peers, it is a ſtanding Mute.

2. *Whether a Peer may challenge his Peers, as in the caſe of common Jurors?*

Anſw. He may not, (which I think is ſo, ſaid that Judg) becauſe they go not on their Oath, but on their Honour, and a Challenge is tried whether he ſtand indifferent as unſworn.

3. *Whether a Peer may have Counſel any more than a common Perſon?*

Anſw. If Matter of Law appear, he may, not for Matter of Fact.

Certain Examinations being taken by the Lords without Oath; It was reſolved,

Theſe could not be uſed until they were repeated upon Oath, unleſs of the Party to be tried, which may be read without an Oath.

4. *Whether the Wife in this Caſe may be a Witneſs againſt her Husband for the* Rape?

Anſw. She may, for ſhe is the Party wrong'd; otherwiſe ſhe may be abuſed. In like manner a Villain may be a Witneſs againſt his Lord in ſuch Caſes.

5. *Whether the Witneſſes are to be produced* viva voce, *if the Lord* Steward *require it, or the Priſoner?*

Anſw. If he ſtand Mute in the Caſe of *Rape* or *Buggery*, he may have his Clergy in either.

6. *Then if he may not be put to Trial on the other Indictment, may not he be for a later* Buggery, *and be denied his Clergie?*

Anſw. On that he may, by 18. *Eliz.* 1.

7. *Whether in caſe one ſtandeth Mute, Evidence may be opened by command of the Court concerning the Fact, though the Delinquent be to be preſſed to death for his contempt?* But it is a matter in the diſcretion of the Court.

8. *Whether in Caſes where Clergie is allowable, the party may pray it before he anſwer, and deny to anſwer, otherwiſe?* for this is a Confeſſion.

9. *Whether in Rape there muſt be* Penetratio?

The Anſwer was in the Affirmative.

10. *He having made ſuit to be bailed, whether it might be granted?*

Anſw. Let the King, as King, adviſe of it. The Judges certified the Lord *Keeper* that he could not in juſtice require it; yet he might be bailed *ex gratia*, which was not fit in this odious Caſe.

At a ſecond Aſſembly of the ſaid Judges in *Serjeants-Inn*, other things were conſidered of as to this Matter.

A difference was made between a *Buggerie* and a *Rape*, in point of having Clergy, if he ſtood Mute: for it was argued he might have his

his Clergy if he ſtood Mute in *Rape*, but not in *Buggerie*, becauſe by the Stat. 25. *H.* 8. *Buggerie* is made *Felony*, which by the Common Law is not. And in the very creation of the Offence, Clergy is taken away; whereas Clergy did lie for a Rape, until it was taken away by a Statute. 7 *Caroli.*

It was concluded that the Lords might Eat and Drink before they were agreed, but they could not ſeparate nor adjourn the giving up of their Verdict. This appeared out of the Report of the Lord *Dacres* of *Gregſtock's* Caſe, who was tried for Treaſon, and acquitted by his Peers, 26. *H.* 8.

It was agreed by the Juſtices in that Caſe of the Lord *Dacres*, that a Verdict cannot be given by a leſſer number of the Lords than twelve; and if twelve be for the King, and thirteen for the Priſoner, the Priſoner ſhall be acquitted.

In an Appeal, if the Defendent be Mute, he ſhall be hanged, and it is an Attainder, it being not within the Statute of *Weſtminſter*, Cap. 12. *De paine fort & dure.* No more is Treaſon. vide *Stamf.*

It was agreed alſo, That a Lord of the Parliament is within the Statute of *Weſtminſt.* 1. in caſe of *Felony*, and ſhall be preſſed to death.

It was agreed, If the Lord *Audley* ſhould have his Clergy upon his being Mute, yet he might be tried upon the other Indictments of *Rape* and *Buggerie*, and ſhould not have his Clergy, by the Statute 18. *Eliz.* becauſe the admitting him to his Clergy, would be a *Superſedeas* to all Indictments of Offences within Clergy, not of thoſe without by that Statute. For by the Common Law, he that is admitted to his Clergy, is diſcharged from anſwering any other Offence; for by indictment of that Law, he is taken from the Power of the Secular Judg, and put into the hands of the Ordinary, whoſe Priſoner he is all his Life after.

It was reſolved from the Lord *Dacre's* Caſe, That the Lord *Steward*, after Verdict given, might take time to adviſe upon it for any point in Law; and that his Office did continue unto him until his Judgment and Reſolution, and it was but a Commiſſion *hac vice* notwithſtanding.

The Names of the Peers at the Trial of the Lord Audley.

1. *Richard* Lord *Weſton*, Treaſurer.
2. *Henry* Earl *Mancheſter*, Privy Seal.
3. *Thomas* Earl of *Arundel* and *Surrey*, Marſhal.
4. *Philip* Earl of *Pembroke* and *Montgomery*, Chamberlain to the King.
5. *Henry* Earl of *Kent.*
6. *Edward* Earl of *Worceſter.*
7. *Francis* Earl of *Bedford.*
8. *Robert* Earl of *Eſſex.*
9. *Edward* Earl of *Dorſet.*
10. *William* Earl of *Salisbury.*
11. *Robert* Earl of *Leiceſter.*
12. *Robert* Earl of *Warwick.*
13. *James* Earl of *Carliſle.*
14. *Henry* Earl of *Holland.*
15. *Thomas* Earl of *Berkſhire.*
16. *Henry* Earl of *Danby.*
17. *Edm.* Vicount *Wimbleton.*
18. *Edward* Vicount *Conway.*
19. *Dudley* Vicount *Dorcheſter.*
20. *Thomas* Vicount *Wentworth.*
21. *Henry* Lord *Clifford.*
22. *Algernon* Lord *Piercy.*
23. *James* Lord *Strange.*
24. *Dudley* Lord *North.*
25. *William* Lord *Peter.*
26. *Edward* Lord *Howard.*
27. *George* Lord *Goring.*

The

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The manner of the Trial.

There was prepared in *Weſtminſter-Hall* a long Gallery aſcending with twelve ſteps, beginning directly over againſt the *Common-Pleas* Bar; extending in length to the top of the *King's-Bench* ſtairs. At the higher end of the Gallery there was a long fair Table, with Benches on each ſide, for the Peers to ſit on; and at the upper end thereof there was a Cloth of State for the Lord *High Steward*; alſo at the lower end another ſhort Table for the Lords and Judges to ſit at. And there was alſo a place provided for the King's Learned Counſel, and Officers of the Court; and below that, the Bar for the Priſoner: Scaffolds being alſo erected on each ſide of the *Hall* for People to ſtand and hear the Trial.

On the day appointed the Peers came into the *Hall*, and took their places according to their Degrees; The Judges likewiſe came, and took their places in order: After them the King's Learned Counſel, and the Officers of the Court.

Thomas Lord *Coventry*, Lord Keeper of the *Great Seal*; being by Commiſſion under the ſaid Great Seal, dated the *13th* of *April* 1631, conſtituted Lord High Steward for the time being, about nine of the Clock in the morning entred into the *Hall* uncovered, with ſeven Serjeants at Arms carrying ſeven Maces before him, and attended upon by Sir *John Burroughs* King at Arms, and Mr. *James Maxwel* Uſher of the Black Rod.

The Lord *Steward*, after he had ſaluted the Lords the Peers, who reſaluted him, aſcended the State; and being ſeated in the Chair, was preſented with his Majeſty's Commiſſion by Sir *Robert Rich*, one of the Maſters of the *Chancery*, which was openly read by Sir *Thomas Fanſhaw* Clerk of the Crown. Then Mr. *Maxwell* kneeling down, preſented his Lordſhip with a White Staff, or Rod, which he gave to one of the Serjeants at Arms, who held up the ſame by the Chair of State, on the right hand thereof.

Then the Lord *Steward* gave leave to all the Peers, and to all the Lords, and Judges, and Privy-Counſellors there preſent, to put on their Hats and be covered; and command was given, that none under thoſe Degrees ſhould be covered upon pain of impriſonment.

Then the Peers were ſeverally called by their Names, and each of them anſwered particularly.

The Kings Counſel there preſent, were,

Sir *Robert Heath*, Attorny General.
Sir *Richard Shelton*, Solicitor General.
Sir *John Finch*, Queen's Attorny General.
Sir *Thomas Crew*, the King's Serjeant at Law.

The Officers of the Court, were,

Sir *Thomas Fanſhaw*, Clerk of the Crown.
And Mr. *Keeling*, his Aſſiſtant.

Then

Then the Lord *Steward* commanded the Indictments to be certified and brought in; This being done, the Lieutenant of the *Tower* was called by a Serjeant at Arms, and commanded to bring forth the Priſoner; who accordingly being brought to the Bar, attended by divers of the Guard, he made obeyſance to the Lord *Steward*, and the *Peers*, by whom he was reſaluted. Then the Lord *High Steward* directed his Speech unto him, which was as followeth.

My Lord Audley,

'THe King hath underſtood, both by Report, and the Verdict of 'divers Gentlemen of Quality in your own Country, That you 'ſtand impeached of ſundry Crimes of a moſt high and hainous na- 'ture. And to try whether they be true or not, and that Juſtice 'may be done accordingly, His Majeſty brings you this day to your 'Trial. Doing herein, as the Mighty King of Kings, in the 18*th* of '*Geneſis*, verſ. 20, 21. who went down to ſee whether their Sins were 'ſo grievous as the cry of them; *Becauſe the cry of* Sodom *and* Go- 'morrah *is great, and their ſins grievous, I will go down, ſaith the Lord,* '*and ſee whether they have done altogether according to the cry of it.* 'And 'the Kings on Earth can have no better Pattern to follow than the 'King of Heaven: And therefore our Sovereign Lord the King, God's 'Vicegerent here on Earth, hath commanded that you ſhould be here 'tried this day; and to that end he hath cauſed theſe your Peers to 'be aſſembled: And the deſire of his Majeſty is, that your Trial ſhould 'be as equal as Juſtice and Equity it ſelf: And therefore theſe Noblemen, 'your Peers, whoſe hearts are as full of Integrity, Juſtice and Truth, 'as their Veins full of Noble Blood, are this day to try you; where- 'fore if you be innocent ſpeak boldly and confidently, and fear not 'to juſtify your ſelf: And be aſſured, that thoſe that accuſe you, if 'you be free your ſelf, ſhall not eſcape free: But if you be guilty of 'theſe Crimes, I adviſe you to give honour to God and the King, and 'confeſs your Faults; for it is not vain Confidence, nor Subtilty, nor 'ſtanding out in denial, that hides the Truth, and all ſhifts and ſubtil- 'ties againſt it are but *Concilia adverſus Dominum.*

'Therefore if Truth touch you at the Heart, and your Conſci- 'ence, which is your Witneſs, and God's Grace which is greater than 'both, ſtand not againſt it.

To this Speech of the Lord *Steward's*, my Lord *Audley* thus anſwered.

May it pleaſe your Grace;

'I Have bin a cloſe Priſoner theſe ſix Months, without Counſel or 'Advice; I am ignorant of the Law, and but weak of Speech at 'the beſt; and therefore I deſire to have the liberty to have Counſel 'to ſpeak for me.

The Lord *Steward* replied; 'That his long Impriſonment was a 'ſpecial favour, for that it gave him time to bethink himſelf, and more 'than ever any Man had that had bin committed for ſuch Offences; 'and that he ſhould demand nothing which the Law can allow, but it 'ſhould be granted.

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'Then his Grace desired to be resolved of the Judges whether the 'Prisoner's demand to have Counsel to plead for him, might be granted 'or not? the Judges answered, that in criminal Causes Counsel is not 'to be admitted in matter of Fact, but in matter of Law it may.

Then the three Indictments were read, whereof two were for *Sodomy* with his Footman, and the third for a *Rape* committed upon his own Wife. Unto all which the Earl answered, *not guilty*; and being asked, how he would be tried, he answered by *God and his Peers.* Whereupon all the Peers put off their Hats, and the issue thereof was joyned.

The Ld. Steward's Speech to the Lords.

The Lord High *Steward* addressed his Speech to the Peers, and said, 'My Lords, the Prisoner stands indicted for a *Rape* by one Indict-'ment, and for *Sodomy* by two, and he hath pleaded *not guilty* to them 'all.

'It is my duty to charge you with the Trial of it, and you are to 'judge of it. The Offences wherewith he standeth charged are to be 'proved by Evidence. And because the Crimes that come this day be-'fore us, may in some breed Detestation, let your Reason sway your 'Judgments, and let that rule your Affections, and your Hearts and 'your Heads; for neither of those ought to be put into the Ballance, 'if a Grain on either side may sway the Scale.

'You are to give attentive Hearing, and then to weigh equally, 'that the Scale may lean the right way. The Judges will assist you in 'point of Law, which if you doubt of, you are to propound it to me, 'and I to them, and this your Lordships are to do without corpo-'ral Oath; For the Law concieveth you of such Integrity, that you 'will do that for Justice, which others do upon their Oaths, and 'therefore admit of no Challenge. And God direct you to do as you 'ought.

Sir *Thomas Crew* opened the Charge.

Sir *Thomas Crew*, the King's learned Counsel, opened the Charge against the Earl to this effect;

'The Person is Honorable, the Crimes dishonorable, so foul as 'Poet never invented, nor *Historiographer* wrote of: the one is a Crime 'of such rarity (let it be spoken to the Honour of our Nation) that we 'seldom or never knew the like; and the other such, the like hath scarce 'been heard of.

'But they are of such a pestilential nature, that if they be not pu-'nished, they will draw Vengeance from Heaven upon this King-'dom. His Majesty would have the Prisoner at the Bar heard 'with as much favour, as Crimes of this nature will admit. And 'when he first heard thereof, he gave strict Command that the Truth 'should be searched out, that his Throne and People might be 'cleared from so heavy and heinous Sins. Thereupon the Prisoner 'was indicted in his own Country according to the Law, and by 'Gentlemen of worth, the Bill was found; and now he is personally 'brought to this Bar, to be Tried by his Honourable Peers, of whose 'Wisdom and Sincerity, there can be no question but he shall have a 'just and honorable Hearing.

'To begin with the Indictment of *Rape*; *Bracton* tells us of King '*Athelstan's* Law before the Conquest, *If the party were of no chaste life,* '*but a Whore, yet there may be a Ravishment: But it is a good Plea for a* '*Man to say she is his Concubine.*

'In an Indictment of *Rape* there is no time of Prosecution necessary: 'for

7 *Caroli.*

'for *nullum tempus occurit Regi*, but in caſe of an Appeal of *Rape*, if a 'Woman do not proſecute in convenient time it will bar her. If a 'Man take away a Maid by force and Raviſh her, and afterwards ſhe 'give her conſent to Marry him, yet it is a Rape.

'For the Crime of *Sodomy*, Our Law had no knowledg of it, till 'the 15*th* of *Henry* the 8*th*, by which Statute it was made *Felony*, 'and herein there is no more queſtion but only this, whether it be '*Crimen Sodomiticum ſine Penetratione*. And the Law 15*th Elizabeth* 'ſets it down in general; and where the Law doth not diſtinguiſh, 'neither muſt we.

'Your Lordſhips will be curious how you give the leaſt mitigation 'to ſo abominable Sin, which brought ſuch Plagues after it, as may be 'ſeen in the 19*th* of *Geneſis*, 19*th* of *Judges*, and 1ſt of the *Romans*.

'It may ſeem ſtrange how a Nobleman of his birth and quality, 'ſhould fall into ſuch abominable Sins; but he had given himſelf over 'to Luſt. And when Men once habituate themſelves unto evil, no 'marvel if they fall into any Sin.

'Alſo he was conſtant in no Religion, but in the morning would be 'a *Papiſt* and go to Maſs; and in the afternon a *Proteſtant* and hear 'a Sermon. He beleived not in God, he feared not God, he left 'God, and God left him to his own wicked way, and then what might 'not he run into.

'Things are found in him beyond imagination, his intentions were 'bent to have his own Wife naught; if ſhe love him ſhe muſt love 'A. his Page and he gives this reaſon out of Scripture, *ſhe was now made 'ſubject to him; and if ſhe did evil at his command, 'twas his fault, he muſt 'anſwer for it.*

'His irregular bounty towards *S.* is very remarkable; him he loves 'and honours above all, not in any honeſt but a diſhoneſt love, he 'calls him his *Favourite*, and lets him ſpend ſeveral thouſand pounds a 'year; and if his Wife or Daughter will have any thing, they muſt 'lie with *S.* and have it from him, ſaying, that he had rather have a 'Child by him then any other.

Witneſſes produced.

The Witneſſes were produced, who teſtified upon Oath, that *A.* coming to his bedſide, when he was in Bed with his Lady, the Earl told her, that her Body was now his, and if ſhe loved him ſhe muſt love *A.* and if ſhe lay with another Man with his conſent, it was not her fault but his, and that if it were his will ſhe muſt obey and do it. And then he held both the hands of his Lady and one of her legs till his Servant did lie with her. Immediately thereupon the Lady would have killed her ſelf with a Knife, but was prevented. It was proved that he uſed the body of one of his Men Servants as the body of a Woman. Alſo there were proved againſt him, ſuch other particulars as are not fit to be named, nor come to the knowledg of the World, nor to be heard among Chriſtians.

The King's Counſel concludes.

Afterwards the Counſel for the King ſpake to the Lord *High Steward* and the Peers to this effect, 'That in ſo dark a buſineſs, a clearer 'proof could not be had. For let a Man be never ſo wicked, or never 'ſo impudent, he will not call Witneſſes to ſee his wickedneſs, yet even 'this point is fully proved. And citing the 18*th* of *Levit.* they ſhewed 'that *by theſe Abominations the Land is defiled, and that God will viſit the 'Land for this Iniquity*, and ſo concluded, That God may take away 'his Plagues, let this wicked Man be taken away from among us.

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The Lo rd High Steward.

'Then the Lord *High-Steward* directed his Speech to the Earl, and 'told him he ſhould be heard in his Defence, with as much patience 'as was admitted in his Charge, and adviſed him to ſpeak pertinent-'ly.

The Priſoner's Objections.

'The Priſoner alledging that he was a weak Man, of a bad memory, 'and deſired he might not be interrupted, began his Defence, with 'Exceptions againſt his Wife, That ſhe was by her own Teſtimony 'diſhoneſt with *Broadway*. The Lord *High-Steward* anſwered, that 'this made againſt him, he ought not to alledge that Fact as an Im-'putation to his Wife, which he forced by violence.

'Then he objected the incompetency of the Witneſſes, his Wife and 'his Servants, that were drawn by his Son's practice, who ſought his life; 'and he deſired to know if there were not a Statute that expreſſed the 'incompetency of Witneſſes.

The Judges Anſwer.

'The Judges reſolved that there was none touching Witneſſes; but 'in caſes of High Treaſon there was a Statute concerning Accuſers. 'Then he demanded if his Wife was to be admitted a Witneſs againſt 'him. The Judges anſwered, that in Civil Caſes the Wife may not, 'but in Criminal or Capital Caſes of this nature, where the Wife is 'the party greived, and on whom the Crime is committed, ſhe is ad-'mitted againſt her Husband. It was further propounded, whether 'it being proved that the party Raviſhed was of evil fame, or unchaſt 'life, it will amount to a *Rape*? The Judges reſolved it a *Rape*, though 'committed on a common Strumpet. For it is an inforcing of the 'Will that makes a *Rape*, and a common Whore may be Raviſhed 'againſt her will, and it is Felony to do it.

'It was alſo propounded whether it was to be judged a *Rape*, when 'the Woman complained not preſently; and whether there be a ne-'ceſſity of accuſation within a convenient time, or twenty four hours? 'The Judges reſolved, that in as much as ſhe was forced againſt her 'will, and then ſhewed her diſlike, ſhe was not limited to any time 'for her complaint; that in an Indictment there is no limitation of time, 'but in an Appeal there is.

'Laſtly, it was propounded, Whether Men of no worth may be ad-'mitted as ſufficient proof againſt a *Baron*. The Judges reſolved, that 'any Man is a ſufficient Witneſs in caſe of Felony.

Lord High-Steward.

'The *Lord High-Steward* ſpeaking to the Priſoner ſaid; My Lord, 'you have been graciouſly dealt with in this Proceeding; for it is not 'an uſual favour in ſo capital and heinous Cauſes to bring the Parties 'and Witneſſes face to face before Trial; but you have heard their 'Examinations long before, queſtioned and oppoſed them to their 'Faces, and are thereby better enabled to make your Defence. And 'his Majeſty is ſtill graciouſly pleaſed to continue his Goodneſs to-'wards you, and hath commanded that you ſhould be heard at full. 'If therefore you have any thing elſe to ſay for your ſelf, ſpeak it.

The Priſoner.

'Whereunto he anſwered, and firſt made a ſolemn Proteſtation of 'his Innocency: But nevertheleſs implored the Mercy of God and his 'Peers, and preſented to their conſideration three Woes.

'Firſt, Wo to the Man whoſe Wife ſhall be a Witneſs againſt 'him.

'Secondly, Wo to the Man whoſe Son ſhall proſecute and conſpire 'his Father's death.

'Thirdly, Wo to the Man whoſe Servants ſhall be allowed to be 'Witneſſes to take away his life. 'And

7 *Caroli.*

'And he willed the Lords to conſider, that it might be their own 'Caſes, or the Caſe of any Gentleman, or Man of worth, that kept 'a Footman, or whoſe Wife was weary of him, or whoſe Son being 'attained to Age, had a mind to draw his Servants into a Conſpi-'racy.

'That his Son was now 21 years of Age, himſelf being old and de-'cayed, that his Son would have his Lands, and his Wife a young 'Husband. And that by their Teſtimony, and the Teſtimony of his 'Servants added to theirs, they had conſpired his Death.

After this the Priſoner, being ſo required, withdrew himſelf from the Bar.

The Lord *High Steward* ſpake to the *Peers*, 'That they having 'heard the Proofs, the Priſoner's Defence, the Doubts and Queſtions 'reſolved, might withdraw, if they were ſatisfied.

The Peers withdrew, and after an hours debate, with ſeveral Advices and Conferences with the *Lord Chief Juſtice*, whom they conſulted four times; having alſo in that time ſent the Earl of *Warwick*, and the Lord of *Dorcheſter*, together with the *Lord Chief Juſtice*, to conſult with the Lord *High Steward*, they returned to their places. The Peers withdraw.

Then the Lord *Steward* asked them one by one, beginning at the loweſt, and ſo aſcending, Whether the Lord *Audley* were guilty of the *Rape* whereof he ſtood indicted? and they all gave him in *Guilty*, the Lord *North* only excepted. Then whether he were guilty of the *Sodomy?* and in this fifteen of the Lords condemned him, and the other eleven freed him. They give their Verdict.

The Verdict being thus given up, the Priſoner was brought to the Bar to hear his Sentence, and the Lord *High Steward* ſpoke.

'Foraſmuch as thou *Mervin* Lord *Audley* haſt bin indicted for di-'vers *Felonies*, by three ſeveral Indictments, one for a *Rape*, the other 'two for *Sodomy*, and haſt pleaded *Not Guilty* to them all, and for thy 'Trial haſt put thy ſelf on God and thy Peers; which Trial thou 'haſt had, and they have found thee guilty, What canſt thou ſay for 'thy ſelf why the Sentence of Death ſhould not be pronounced 'againſt thee? Lord High *Steward*.

Whereunto the Priſoner made anſwer, That he had no more to ſay, but referred himſelf to God's and the King's Mercy.

Then ſaid the Lord *Steward*, 'My Heart grieveth for that which 'my Tongue muſt utter; but this is the only way to cut off wicked-'neſs, hear therefore thy Sentence.

Thy Sentence is, 'That thou go from hence to the Priſon from 'whence thou cameſt, and from thence to the place of Execution, 'there to be hang'd by the Neck until thou be dead; and the Lord 'have mercy on thy Soul.

And having thus pronounced the Sentence, he continued his Speech, and ſaid; 'O! think upon your Offences, which are ſo heinous and 'horrible, that a Chriſtian Man ought ſcarce to name them, and ſuch 'as the depraved nature of Man, which of it ſelf carries him to all 'ſin, condemns as unnatural. You have offended, not only againſt 'Nature, but beyond the rage of a Man's jealouſie; and though you 'do not ſuffer for abuſing your own Daughter, and that having Ho-'nour and Fortune to leave behind you, you would have had the 'ſpurious

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'ſpurious Seed of a Varlet to inherit both, yet theſe are horrid Crimes. 'But, my Lord, it grieves me to ſee you ſtand out againſt the Truth 'ſo apparent. God might have taken you away when you were 'blinded in your ſins, therefore I hope he hath reſerved you as the 'Subject of his Mercy. He ſends you to ſee this day of ſhame, that 'you might return unto him; and ſeeing he doth thus lovingly draw 'you to his Service, ſpend the remainder of your time in tears and 'repentance; and this days work, I hope, will be the correction of 'many Crimes and Corruptions.

At laſt the Lord *Audley* deſcended to a low Petition to the Lords, 'and very humbly beſought them to mediate to his Majeſty, that he 'might not die, but be baniſhed; at leaſt, that his Majeſty would not 'ſuddenly cut him off, but give him time of Repentance.

The Trial of *Broadway* and *Fitz. Patrick* in the *King's Bench.*

In *Trinity Term* in the Month of *June*, *Giles Broadway*, and *Florence Fitz-Patrick* were tried in the *King's Bench*. *Broadway* was he that Raviſhed the Lady *Audley*, while her Husband held her by force. *Fitz-Patrick* was he that committed the Sin of *Buggerie* with him, her ſaid Huſband; and both their Depoſitions were taken as Evidence againſt them. They were found guilty the 28*th* of *June*, *in Termini fine*, and the Judges of that Court preſently ſent theſe Letters under-written to the Lord *Keeper* to prepare him for the King.

The Judges Letter to my Lord *Keeper.*

Right Honourable,

MAy *it pleaſe your Lordſhip to be informed, That this day* Giles Broadway *and* Florence Fitz-Patrick *were tried before us in the* King's Bench, *for the ſeveral Offences of* Rape *and* Buggery, *of which they were Indicted, and they have received Judgment of Death. But we forbear the Awarding Execution, upon a Meſſage from your Lordſhip by Sir* Thomas Fanſhaw, *of his Majeſty's Pleaſure for the ſtay of Execution, until further direction from his Majeſty: But conceiving there is great cauſe to put the Malefactors to Execution, We thought it our duty to acquaint your Lordſhip with the Paſſages of the Trial, that his Majeſty, by your Lordſhips means, being made acquainted herewith, may ſignify his farther Pleaſure.*

Broadway, *who was Arraigned for the* Rape, *very impudently denied his own Confeſſion, taken before the Lords and Peers at the Trial of the Lord* Audley: *He pretended he was amaz'd, and knew not what he ſubſcribed, and profeſſed himſelf Guiltleſs, with great Execrations, to the little ſatisfaction of thoſe that heard him. He would not be ſatisfied, unleſs the Lady were produced face to face, which ſhe was; who by her Oath,* viva voce, *ſatisfied all the Hearers, both concerning the truth of the Fact, and his Impudence.*

Fitz-Patrick, *who was Arraigned for the* Buggery, *confeſſed his Examination to be true; but like one very ignorant, or rather ſenceleſs, would have them true againſt the Lady* Audley, *but not againſt himſelf, which was impoſſible. He pretended he was promiſed ſecurity from danger, if he would teſtify againſt the Lord* Audley, *and ſo ſought to raiſe a ſuſpicion, as if he had bin wrought on to be a Witneſs to bring the Lord* Audley *to his end. They were both found Guilty, with full ſatisfaction to all that were preſent. And we for our parts thought it to ſtand with the honour of Common Juſtice, that ſeeing their Teſtimony had bin taken to bring*

bring a Peer of the Realm to his Death, for an Offence as much theirs as his, that they ſhould as well ſuffer for it as he did, leſt any jealouſie ſhould ariſe of the truth of the Fact, and the juſtneſs of the Proceeding. But upon receipt of your Lordſhip's Meſſage, we have ſtayed Execution till his Majeſty's further Pleaſure ſhall be known: To which we ſhall humbly ſubmit our ſelves, and reſt, 7 Caroli.

At your Lordſhip's command,

N. Hide. W. Jones.
J. Whitlock. G. Croke.

The King being by this means truly informed, ſignified his Pleaſure, That they ſhould be executed, but have a weeks time for Repentance. So the Judges appointed *Monday*, being the 4*th* of *July*, for the day of their Execution, when they were executed accordingly.

A New Order for raiſing of Mony to the King's Uſe.

AT this time an Office was erected for the Sealing of *Playing-Cards*. Mr. *William Watkins* was put into that Employment, and *Henry Cogan* made Farmer of his Majeſty's Duties accruing thereupon. On *June* 7, the Maſter and Wardens of the Company of Cardmakers making ſome oppoſition to it, were ſent for, and required to bring with them, as well the *Charter* and Ordinances of their *Corporation*, as the Seal by them taken lately from the ſaid *Watkins*, and to attend the *Board* with the ſame; beſides it was ordered, that *Fryer* and *Williams*, two of the ſaid Cardmakers, ſhould continue ſtill in the cuſtody of the Serjeant till further Order, and till afterwards that this Buſineſs was fully heard and ſetled for the *Patentees*, ſo that no Cards ſhould be ſold till they were ſealed. Playing Cards to be ſealed.

But afterwards a Contract was made between the King on the one part, and the Maſter, Wardens, and Commonalty of the Myſtery and Makers of Playing Cards of the City of *London*, on the other part; wherein they did covenant,

'That they ſhall and will readily, and every Week in and through-'out the whole Year, well, and Workman-like, make ſo many ſeve-'ral Groſs of good and Merchantable Playing-Cards, as in a Schedule 'thereunto Annexed. And that they ſhall and will, from time to 'time, for ever hereafter, bring in, and deliver unto ſuch Perſon and 'Perſons as the King ſhall aſſign or appoint to receive the ſame, the 'ſaid ſeveral reſpective quantities and proportions of Cards in the 'Schedule annexed.

'In conſideration of the Premiſes, the King doth covenant with 'the ſaid Corporation, that he ſhall and will anſwer, and pay unto 'the ſaid Corporation for every Groſs of the fineſt ſort of Cards, ac-'counting twelve dozen Pair to the Groſs, 18 *s.* And for every Groſs 'of Matris Cards, accounting eighteen dozen pair to the Groſs, and 'delivered in by them weekly as aforeſaid, the like ſum of 28 *s.* and 'ſo rateably and proportionably the Paiments to be weekly made by 'the Officers or Agents of his Majeſty and Succeſſors for the time be-'ing; and they are to pay 3 *s.* 6 *d.* to his Majeſty, to the Officer or 'Sealer of the ſaid Cards.

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The like Contract was made between his Majesty and the Dicemakers of the City of *London*, paying their allotted proportion for every Bale of Dice.

Trin. 7. Car. B. K.

A New Court for them which were not of the King's Houshold.

The King's Letter to the Judges of the *King's Bench*, concerning a New Court of the Marshal of the Houshold.

IT pleased the King's Majesty to write unto the Judges of the *King's Bench*, Letters in some manner expostulatory, as if they took exceptions at the erection of the New Court of the *Marshal of the Houshold*, to hold Plea *de non existentibus de hospitio Regis*; which Court was first erected by the Grant of King *James*, 15 *Feb.* 22 *Jac.* and again renewed with more perfection, as was conceived, in *November*, 6 *Caroli*. And a Writ of Error being brought into the *King's Bench*, upon a Judgment given in this Court, the Knight-Marshal fearing this new Grant would not be held good in Law, caused the King to write to the said Judges as aforesaid.

* Mr. Justice *Whitlock*.

To which Letter, an Answer was sent to the King, penned by * me *per Mandatum Curiæ*.

Dread Soveraign,

The Judges Answer.

WE *make bold to inform your Majesty, (in answer to your gracious Letter unto us of the* 24*th of* June *last) that about two years since, we were consulted with by your Attorny General, about the validity of* Letters Patents *of the* 22 *Year of your late dear Father, for the Erection of a new Court within the Verge, for those not of the Houshold; and the said* Letters Patents *were once read over before us, being assembled privately about that business, and Copies were appointed to be brought unto us, to take the better consideration thereof; but no Copies were delivered unto us, neither did we ever hear any more of the Business.*

We find it also to be true, that some against whom Judgments had bin given in the said Court, did bring them before us by Writ of Error, *but did not proceed so far as to Argument or Judgment. And according to the New Patent sithence granted, we knew not of it until after it was passed, nor were ever acquainted with the penning or passing thereof.*

We understand also that a Writ of Error *is brought before us by* Fisher *against* Wagstaff, *upon a Judgment given in the last erected Court, which Cause hath proceeded no further than to the reading of the Record. And the* Error *assigned is only this, That neither of the Parties were of your Majesty's Houshold. But the day to hear Counsel not being yet come, we cannot understand till we hear them upon what points they will stand.*

And your Majesty may be pleased to be informed, that the Cause cometh before us by an Ordinary Court of Proceeding, *which we cannot stop, neither did we know of the Cause, nor take notice of it, until the Record was read in Court. But when it shall be spoken unto, and we know what the Question will be, we will be exceeding careful and circumspect, according to our Oaths, that your Majesty shall not suffer any prejudice, or diminution in your Power Royal and Prerogative; neither do we make doubt but that your Majesty hath as full and as great Power, and high Prerogative,*

6 Caroli.

gative, as any of your Noble Progenitors ever had, and we will ever maintain it to be ſo.

And whereas your Majeſty's Pleaſure is to be informed by us of the Defects in the ſaid laſt Patent, *We have not yet heard the Counſel open them, what they are that they mean to ſtand upon. Howſoever if it be Your Majeſties Pleaſure that we ſhould by way of Conſultation take that Point into our conſideration, We humbly deſire your Majeſty, That foraſmuch as it is a matter of ſo great Importance, that Your Majeſty will be pleaſed for Your better ſatisfaction, to give Order that herein we may have the Aſſiſtance of Your Judges of the* Common Pleas, *and* Barons *of Your* Exchequer. *And we ſhall all endeavour to do your Majeſty true and faithful Service herein. And ſo we recommend your Majeſty by our Prayers to the Protection of the Almighty, and reſt,*

Your Majeſties Faithful Servants and Subjects.

Marqueſs *Hamilton* takes leave of the King.

In the middle of *July* the Marqueſs of *Hamilton* having taken his leave of the King, met with the Forces out of *Scotland* which were to joyn with him in *Yarmouth Road*, their appointed place of meeting, thence he ſet Sail the 19*th* of *July*, the Fleet conſiſting of about forty Sail; The 25*th* they came to *Elſenore Caſtle* in the Sound of *Denmark*. The Marqueſs went on Shore to kiſs the King of *Denmarks* hand, who lay at *Frederick-ſtadt*. The 29*th* they ſet Sail again, coming to an Anchor the next day by the Iſle of *Rugen*. The 31 they Sailed into the Mouth of the *Oder*, betwixt *Wolgaſt* and the Iſle of *Uuſdom*.

Arrives in *Denmark*.

The 2*d* and 3*d* of *Auguſt* were the Forces landed, being upon Muſter above 6000 able Men, among which but very few ſick, and only two died in the Voiage.

Afterwards in *Pomeren*.

The two next days they were all armed and wafted over the River from the Iſle of *Vuſdome* to *Wolgaſt* ſide, and there billetted in five Villages or Dorps.

He fails of 6000 *Swedes* to join with him.

Hereabout they ſtayed for the coming of 6000 *Sweeds* Horſe and Foot, which that King had promiſed ſhould joyn with the Marqueſs's Army at their landing, to bring them through the Enemies Quarters to the King. But the Marqueſs being diſappointed of the promiſed Forces to joyn with him, could not march up to the King, whereby he loſt the Honour of being engaged in the Battel of *Lipſick*, which happened about a month after his landing on *Wolgaſt* ſide, to the great regret of himſelf and his Army.

Printed Inſtructions for Muſters and Arms.

On the 27*th of July* by order of the Privy-Council, came forth in print a Book, entituled, *Inſtructions for Muſters and Arms, and the uſe thereof*; which in regard of the length thereof, and the Diviſions and Fractions therein, as to the manner of Muſtering, and handling of Arms, it is not mentioned in the body of the Hiſtory, leſt it ſhould prove too tedious to the Reader, but it is put into the *Appendix*.

At this time the Lords of the Privy-Council thought fit to write to the Lords Lievtenants of each County this quickning Letter, concerning the payment of the Muſter-Maſter.

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A Letter from the Lords of the Council concerning the Muſtermaſter's place, directed to the Lords Lieutenants.

Whereas his Majeſty is informed that the entertainments of the Muſter-Maſters within the ſeveral Counties of this Kingdom, altho no more then was heretofore allowed and uſually collected, are denied to be paid by ſundry refractory Perſons, who receive ſome encouragement to oppoſe ſo neceſſary a ſervice for the common defence of his Royal Perſon and Dominions, by reaſon that the Lords Lieutenants and their Deputies make difficulty (or at leaſt dainty) in ſetting their Hands to the ſaid Aſſeſſments juſtly and equally ſet, as uſually hath been accuſtomed, as well in the Raign of Queen Elizabeth, *as of King* James *of bleſſed memory. Now for as much as exerciſing of the* Trained Bands *is by this means diſcontinued, with imminent danger to the State in general, which his Majeſty in his Royal Office ought not to ſuffer: His Majeſty hath therefore commanded us to ſignifie unto your Lordſhips, that it is his expreſs pleaſure, that you cauſe the ſaid Muſter-Maſters entertainment to be rated according to the accuſtomed manner, by Aſſeſsment under your own Hands, and your Deputies; and if any Perſon or Perſons of whatſoever quality, ſhall make refuſal to pay the Rates ſo aſſeſſed on them, that then you take preſent order they be bound over, without any favour or forbearance, to anſwer their contempt before us. Now as his Majeſty is thus graciouſly careful that the Muſter-Maſter ſhall receive the Allowance due unto him for the exerciſing of that Service; ſo it is alſo his Majeſties pleaſure that your Lordſhips take eſpecial care to ſee him diligently perform his Duty according to the importance of the ſaid Service,* &c.

Trained-bands to march to the Sea-Coaſt.

Likewiſe the Lords of the Council thought fit upon Reaſons of State to order the *Trained-Bands* of ſeveral Counties to march to the Sea-Coaſts for the defence of the *Kingdom*; and ſeveral Perſons refuſing to pay the Muſter-Maſters of the *Trained-Bands*, were ſent for up by Meſſengers to the Council Table, where among others appeared *Edward Bulſtrod* of *Chilton* in the County of *Bucks* Gentleman; but was diſcharged from any further attendance on their Lordſhips, upon giving his promiſe under his hand in writting to conform himſelf hereafter in paying the Muſter-Maſter of that *County* his due, according to the Aſſeſsment of the *Deputy Lieutenent*.

The like of *Henry Cavon* of *Crendon* in the ſame County, who was diſcharged of his attendance in promiſing to pay the Muſter-Maſter his due in like manner as *Edward Bulſtred* did. The like for *Richard Pauly* and others.

A Memorial made by Mr. Juſtice Whitlock *in his life-time concerning the Lord* Rea's *diſcovery of the Marqueſs of* Hamiltons *Conſpiracy.*

Judges Opinions concerning *Rea* and *Ramſey*.

'PReſently after my return from this Circuit, my ſelf and the reſt of 'the Judges of the Kings Bench, were ſent for by the *Lord-Keeper* to *London*, to adviſe with him about the Affairs of his Majeſty. 'We came thither on *Monday* 22*d. Aug.* except the *Chief-Juſtice*, who 'was ſick. The matter conſulted of, was to give our Opinion con-'cerning the Conference had in *Germany* between certain Scotiſh 'Gentlemen, about the making the Marqueſs of *Hamilton* the Head 'of a Party againſt the King and his Kingdoms of *England* and *Scot-'land*.

'The

7 *Caroli.*

'The Lord *Rea* a Scotiſh *Baron*, did Impeach *Ramſey* and *Meldrum* 'for moving him to this Conſpiracy: They denied it punctually, and 'no Witneſs could be produced. *Ramſey*, a Souldier, offered to clear 'himſelf by Combat, that he was Innocent; and the Appellant ac- 'cepted of his Offer. The King was deſirous it ſhould be put upon a 'Duel; and we were conſulted with, 1ſt what the Offence was? 2*dly* 'where the Trial might be?

'We all with the Lord *Keeper* were of the Opinion, 1ſt. That it 'was an high and horrible Treaſon, if that in the Examinations were 'found true. 2*dly*, That the Trial might be by an Appeal of Treaſon, 'upon which the Combat might be joyned: But the King muſt make 'a *Conſtable*, *durante beneplacito*, for the *Marſhal* could not take the 'Appeal without him: That it muſt be after the manner of the Civil 'Law, and we were not to meddle in it. Likewiſe we were of Opini- 'on that this Proceeding before the *Conſtable* and *Marſhal* was, as it 'was before the Statute of the 35*th H.* 8. *cap.* 2. and that Statute de- 'viſed a way how to try theſe Foreign Treaſons in *England*, but did 'not take away the other. We were alſo of Opinion that the Stat. of '1ſt *Mar. Cap.* 10. did not take it away nor intend it; and that a Con- 'viction in this Appeal was no corruption of Blood or forfeiture at the 'Common-Law. See *Doughtie's* Caſe in *Cokes Comentaries*, fol. 75. Sect. '*Eſcuage.*

Sir *Hen. Vane* ſent Ambaſſador to the Kings of *Denmark* & *Sweden.*

IN the Month of *September* this Year Sir *Henry Vane* Knight, Comptroller of his Majeſties Houſhold, and one of his Privy-Council, Embaſſador Extraordinary to the King of *Denmark* and *Sweden*, and to other Princes and States of *Germany*; took his leave of his Majeſty and embarqued with all his Train in order to his ſaid Voyage, and arrived at *Gluckſtadt* ſcituate upon the *Elb*, in *October* following, by whom his Majeſty wrote this Letter to the Marqueſs.

The King's Letter to Marqueſs *Hamilton.*

James,

ACcording to my Promiſe I have diſpatched Henry Vane, *whom I have commanded to impart unto you both his publick and private Inſtructions, ſo that it will be a good excuſe for my Lazineſs in writing ſhort unto you, and a Teſtimony to you that your abſence neither makes me alter nor forget you; for you may be aſſured that my truſt of you is ſo well grounded, that it lies not in the power of any body to alter me from being,*

Hampton Court
Sept. 21. 1631.

Your loving Friend and Couſin,
C. R.

The Ambaſſador was no ſooner gone on his Voyage to the King of *Sweden*, but before his arrival in *Germany*, that King gave the King of Great *Britain* an account of the Victory obtained over *Tilly* at the Battel at *Lipſick*. The Letter followeth.

The King of *Sweden* writes to the King of *Great Britain* of the Battel of *Lipſick.*

GUſtavus Adolphus, &c. *Since we are ſatisfied of the conſtant Propenſity your Serene Majeſty hath for us and the publick Good, and that which happened to us ſucceſsfully, and for the good of endangered* Chriſtianity, *that your Serene Majeſty did alſo bear a part therein, we would not omit the certifying your Majeſty of the memorable Victory, which Divine*

An. 1631. *Goodneſs afforded us. After the Elector of* Saxony *had join'd his Forces with ours, we marched againſt the Enemy with both Armies, and the Enemies Army under General* Tilly, *oppoſed us* Septemb. 7, *having drawn out all his Forces a mile from the Fortreſs at* Lipſick. *The Battel being begun, the buſineſs was briskly managed on both ſides for the ſpace of* 4 *hours and upward, till at laſt, by the ſingular bleſſing of God, the Enemies Army, by the indefatigable valour of our Men, was put to flight, and diſſipated, we purſuing them to the very Walls of the City. The Enemy left us their Cannon and Baggage. The General retired into the Biſhoprick of* Halberſtadt, *having received a Wound, they whom we purſued being left to our Souldiery and Mercy. Many of the Enemy lay dead in the Field where the Battel was fought, and among them the Serjeant Major General, and other Commanders in the Army. Among ſome thouſands of Priſoners, the Duke of* Holſtein *was one, and ſome others of the moſt eminent quality. The praiſe of which Succeſſes is due to Almighty God, and ought deſervedly to be attributed to his Goodneſs, and we hope, not only the ſo much deſir'd wiſhes of ſo many thouſand People of reſtoring Religion and Liberty, but alſo the facility of ſetting up the afflicted Cauſe of the King of* Bohemia, *ſhall now manifeſtly appear. We do not therefore diſtruſt but that your Serene Majeſty will proſecute this Victory, not only with Joy and Affection, but alſo make uſe of ſo fair an opportunity, and that it will be your Royal Care to judg of all things henceforward to be conferr'd upon, and to conſult of thoſe things which relate to Chriſtianity and their ſafety by your Heroick Counſels. We will not any farther trouble you, but commend your Serene Majeſty to the Divine Protection for the happy increaſe of all things. Dated at* Hall *of the* Saxons, *the* 13*th of* September, 1631.

Septemb. 17. 1631.

Your Serene Majeſty's

Good Brother and Allie,

Guſtavus Adolphus.

A Relation of the Battel by Lipſick, *written by* Guſtavus Horn, *the Lord Marſhal General to his Majeſty the King of* Sweden.

AS ſoon as the King of *Sweden* had reſolved to give aſſiſtance to the Duke of *Saxony*, whoſe Country the Enemy had already invaded, upon the 3*d* of *September*, he paſſed his Army over the Bridg at *Wittenburgh*, and joined himſelf with the Armies of the Dukes of *Saxony* and *Brandenburg*, at *Tuben*, the 5*th ditto*, where firſt they deliberated and conſulted in what manner they might beſt encounter the Enemy, and whether it were wiſdom to bring it to a Battel preſently, or by delay of time to break and weaken the Power of the Enemy. His Majeſty was of opinion not to ſet all upon Fortune, much leſs to put their whole State in danger by the event of an uncertain Battel; yet, for all that, the Duke of *Saxony* inſiſted ſtill for a Battel, ſaying, That there was no other means to drive the Enemy out of his Country, much leſs was it poſſible that both theſe Armies could be furniſhed of all neceſſaries, eſpecially becauſe the Enemy had incorporated the beſt part of the Country. And therefore he thought fit in wiſdom to

7 Caroli.

to approach towards the Enemy towards *Lipſick*, and to encounter him with all their Might. Whereupon the King, with the foreſaid Duke, upon the *6th* of *September*, marched with their Armies within two miles of *Lipſick*; which Town *Tilly* by Compoſition had taken in, as alſo the Caſtle; both which, by reaſon of bloody threatning, ſubmitted themſelves to *Tilly*: Whereupon we followed the *7th ditto*, and met the Enemy a mile from *Lipſick*. Notwithſtanding the Enemy had both the Wind and higher Ground of us for his advantage, yet for all that we skirmiſhed very luſtily with each other in good order, both with Ours, as alſo with the *Saxon*'s Army. The King's Army upon the right hand, and the *Saxon*'s Army imploied upon the left hand. The King's Army was divided into the Avant-guard of the right Wing, which the King himſelf commanded, and there ſtood alſo the moſt and beſt Armed Horſemen, interlaced with certain Muſquetiers, in the Rere-guard of the ſaid Wing, commanded by General *Bannier*. In the Vaunt-guard of the Battel, ſtood four Squadrons of Pikes and Muſquetiers, who were commanded by theſe Chiefs, Mounſieur *Duivell*, *Acko*, *Oxenſtern*, *Erentruiter*, *Hardt*, and *Winckle*. In the Rere-guard of theſe Battails there ſtood three other Squadrons, the Count of *Thurn*, *Hebron*, and *Vitſdum*; and after theſe, two Regiments of Horſe upon the left Wing, by whom his Majeſty appointed *Guſtavus Horn*. The reſt of the Horſe were divided into the right Wing, the Vaunt-gaurd and the Rere-guard mingled with Muſquetiers. In this order was the whole Army ſet, ſo that we got half-wind of the Enemy; yet they kept the advantage ſtill of the higher Ground, where he had planted his Artillery. We marching thus in their ſight, through a foul Paſſage, the Enemy did ſome harm with his great Pieces on our Troops, chiefly among thoſe that were with *Guſtavus Horn* upon his left hand. And hereupon with his left Wing (where the greateſt ſtrength of his Horſe was) fell upon our left Wing. But whilſt they were thus buſied to gain Ground more and more of us, and to get the Wind, as they thought; the Horſe and the Foot Regiments of the Duke of *Holſtein* retreated from the *Battalia*; and the right Wing perceiving that the commanded Muſquetiers of our right Wing were mingled among the Horſe, and had hard entertainment of the Enemy, they drew more to their left hand; and ſo the Enemy charged more upon the Reſerve of our right Wing, than upon the Vaunt-Guard, which his Majeſty cauſed very ſeaſonably to be ſeconded with ſome Troops, in ſuch manner, that the Enemies left Wing with little ado was broken and put to flight. The Enemies Battel, conſiſting of all his Foot, being divided into four great *Spaniſh* Battalions of ſixteen Regiments, upon this marched from the Hill, together with their Horſe: But in regard they were ſo annoyed with our Artillery which were placed upon our left Wing, they ſo turned their Order, that moſt of them fell upon the Duke of *Saxon*'s Army to their diſadvantage; but all their Horſe fell upon our left Wing, who were ſoon diſperſed and put to flight. And contrarily the Footmen of the Duke of *Saxony* almoſt fled the Field; yet whilſt the Enemy purſued the *Saxons*, our left Wing charged into their Flank, and upon the two Troops of Reſerves; and in this poſture we fought long, and loſt many of our Horſe. Yet, finally, after *Guſtavus Horne* had ſoundly charged the Enemies Battail with that Regiment of *Gothland*-Horſe which his Majeſty ſent him for an aſſiſtance and ſuccour, together with the

An. 1629. the commanded Muſquetiers which had bin placed in the left Wing by the King, ſo that they began to grow very thin, and were diminiſhed, their Battel preſently broke, and they were all put to flight excepting four Regiments; who by reaſon of the Smoke and Duſt, were ſo ſhadowed from our ſight, that they ſaved themſelves.

After this Defeat his Majeſty marched to *Hall*, and took in the Town and Caſtle; then marched forward, and took in *Poſewald* and *Querfurt*. The Duke of *Saxony* marched towards *Bohemia*. His Majeſty took in *Erfurt*, *Gota*, *Hamelburgh*, *Mulhouſen*, and *Werburgh*. The 20*th* of *October* his Majeſty came to *Franken*, took *Carelſtadt*, with the Biſhopricks of *Wittsburgh* and *Bamburgh*. The *Landtgrave* of *Heſſen* took *Fulda*, *Vach*, and *Fritzlaer*; He came into *Weſtphalia*, and took *Paterborn*, with ſome other Places; *Roſtock* rendred upon Compoſition to the Duke of *Mecklenburgh*. The King's Forces took in *Dunckenſpil*, *Nortlingen*, *Rotenburgh*. *Magdenburgh* was ſtrongly beſieged. His Majeſty took in *Hanaw*, *Franckford*, and *Hougſt*. The *Saxons* took in *Glockow*, and defeated the Emperor's Men by *Croſten*. The Count of *Thurn* took in *Prague*. The King's Men beat the Emperor's Men by *Warheim*; defeated alſo the Souldiers of the League by *Swynfurt*, and alſo by *Elleboghen*. His Majeſty paſſed the River of *Rhine*, and took in *Mentz*, *Worms*, *Oppenheim*, and almoſt all the Towns of the *Lower Palatinate*.

Mr. *Ford*, *Thorn*, and *Hodges*, appeal to the Proctors; being queſtioned for preaching againſt the King's Inſtructions, *Aug.* 23.

Cauſe heard before the King.

Mr. *Thomas Ford* of *Magdalen-Hall*, Mr. *Giles Thorne* of *Balial* College, and Mr. *Giles Hodges* of *Exeter* College, in their Sermons at St. *Maries*, uſed Expreſſions againſt the *Arminians*, under the Title of *Pelagians*, and *Demi-Pelagians*, for which they were Convented before the Vice-Chancellor, Dr. *Smith*, and others, as Offenders againſt the King's Inſtructions. They appealed from the Vice-Chancellor to the Proctors, who received their Appeals. Hereupon the Biſhop of *London* complains to the King of this Matter; and the King appointed to hear the Buſineſs at *Woodſtock*, on the 23*d* day of *Auguſt*. Concerning which Perſons and Proceedings before the King, the Biſhop of *London* makes this *Memoir*, viz.

The Biſhop of *London*'s *Memoir*, Aug. 23.

In *June* and *July* were the great Diſorders in *Oxford*, by appealing from Dr. *Smith*, then Vice-Chancellor. The chief Ringleaders were the ſaid Mr. *Ford* and Mr. *Thorn*. And the Proctors, Mr. *Bruch* and Mr. *Doughty* received their Appeals, as if it had not bin *perturbatio Pacis*. The Vice-Chancellor was forced in a ſtatutable way, to appeal to the King, who with all the Lords of his Council then preſent, heard the Cauſe at *Woodſtock*, *Auguſt* 23. 1631. being *Tueſday* in the Afternoon.

The Sentence upon the hearing was; That *Ford*, *Thorn*, and *Hodges*, ſhould be baniſhed the Univerſity; and both the Proctors were commanded to come into the Convocation-Houſe, and there reſign their Office, that two others might be named out of the ſame Colleges. Dr. *Prideaux*, Rector of *Exeter* College, and Dr. *Wilkinſon*, Principal of *Magdalen* Hall, received a ſharp Admonition for their miſbehaviour in this Buſineſs.

The Crimes of theſe young Divines are more particularly ſet down in the Univerſity-Regiſter.

1. Mr.

7 *Caroli.*

1. Mr. *Hodges* was ordered to make a publick Recantation-Sermon in St. *Maries* Church in *Oxford*, before the *Univerſity*, confeſſing his great Offences in Preaching contrary to his Majeſties Declaration.

2. That he ſhould make a Submiſſion and Recantation, penned to his hand in the Convocation-Houſe, before the whole Aſſembly of the Doctors, Proctors, Regent and Non-Regent Maſters, on his bended Knees.

In which Recantation he did acknowledge, 'That he fell upon the 'delivery of thoſe Points, which by his Majeſty's Royal Injunction 'were forbidden him to meddle with at all; and particularly did ac-'knowledge that he let fall ſome paſſages, which might be taken to the 'diſparagement of the Government of the Church, in making erroneous and Heretical Opinions the way to perferment; craving the Par-'don of the Univerſity in the general, and more eſpecially of the moſt 'Honorable Chancellor of that Univerſity.

Mr. *Ford* refuſed to make any Addreſs to be reſtored to the Univerſity: and it being intended by ſome to chooſe him a Lecturer in the Town of *Plimouth*, they were required not to chooſe him upon pain of his Majeſties diſpleaſure.

Novemb. 18. Goldſmiths in *Cheapſide.*

At this time it was a great Eye-ſore, that the *Goldſmiths-Row* in *Cheapſide*, which hath ever been a great Ornament to the City, ſhould grow to be intermixed in a broken faſhion with Shops of meaner Trades, which did diſparage the City: whereupon the King declar'd his pleaſure, that that Deformity ſhould be taken away, and it being debated at the Council-Table, the *Recorder* and ſome Aldermen preſent, it was refer'd to the two Lord Chief Juſtices, and other Judges, to conſider what Laws or Statutes there are to enforce *Goldſmiths* to plant themſelves for the uſe of their Trade in *Cheapſide* and *Lombard-ſtreet*: but after ſeveral Debates before the King and Council, it was ordered, that the Company of *Goldſmiths* ſhould take order that within a ſhort time limited, *Goldſmiths-Row* in *Cheapſide* and *Lombard-ſtreet* ſhould be ſupplied with *Goldſmiths*; and that thoſe who keep Shops ſcateringly in other parts of the City, ſhould have Shops procur'd for them in *Cheapſide*, or *Lombard-ſtreet*, upon penalty, that thoſe of the Aſſiſtants and Livery, that did not take care herein, ſhould loſe their places. And it was further ordered, for the time to come, that all ſuch who ſhould ſerve their Apprenticeſhips to Goldſmiths, and thereupon were made Free, ſhould enter into Bond, not to keep a Goldſmiths Shop in any other part of the City, than in *Cheapſide*, or *Lombard-ſtreet*, and that the Lord *Mayor* ſhould take care, that Shops be provided for them at moderate and indifferent rates.

Judg *Whitlock's* Character of Sir *Nicholas Hide.*

Mr. Juſtice *Whitlock* thought fit, with his own hand to ſet down in writing this Memorial concerning Sir *Nicholas Hide.*

'That Sir *Nicholas Hide*, Knight, Chief Juſtice of the Kings Bench, 'died at his Houſe in *Hampſhire*, ſince the laſt *Trinity Term*, to wit, 'upon *Friday* the 26*th* of *Auguſt*, 1631. How he was made Chief-'Juſtice, and when, *vide lib. A.f.* 119. *Hill.* 2 *Jac.* He lived in the 'place with great Integrity and Uprightneſs, and with great Wiſdom 'and Temper, conſidering the tickliſhneſs of the times. He would never

'undertake

An. 1631.

'undertake to the King, nor adventure to give him a resolute Answer 'in any weighty Business, when the Question was of the Law, but he 'would pray that he might Confer with his Brethren. And the King 'ever gave way to it. He dyed of a hot Feaver, but made incura- 'ble by reason that an Impostume brake in his Head in the time of 'his sickness. He was a spare lean Man of Body, and of an excellent 'temperate Diet, and promised long life by his Temperatness, to those 'that conversed with him; he was 59 Years of age in *May* last.

In order to a Commission under the Great Seal, dated the 24*th* of *November*, there began a notable Trial, before *Robert* Earl of *Lindsey*, Constable of *England*; and *Thomas* Earl of Arundel and *Surry*, Earl Marshal of *England*, in the Court of *Chivalry*, judicially sitting in the Painted-Chamber at *Westminster*; together with other Honourable Persons, namely *Philip* Earl of *Pembrook* and *Montgomery*, Lord *Chamlain* of the King's Houshold; *Edward* Earl of *Dorset*, Lord *Chamberlain* of the Queens Houshold; *James* Earl of *Carlisle*, *Edmund* Earl of *Mulgrave*; *William* Earl of *Morton*; *William* Earl of *Stratherne*; *Edward* Vicount *Wimbleton*; *Thomas* Vicount *Wentworth*; *Henry* Vicount *Faulkland*; and Sir *Henry Martin*, Judg of the High Court of *Admiralty*, all of Counsel with the Court; *Gilbert Dethick* being *Register*. And first *William Seager*, King of Arms, presented to the Lord *Constable* of *England Letters Patents* of the tenor following.

CAROLUS Dei Gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ, Rex, Fidei Defensor. &c. prædilecto & per-quam fideli Consanguineo & Consiliario nostro Roberto Comit. Lindsey summo Camerario Angliæ salutem. Cum officium Constabular. Angliæ vacans Existat, ac Donaldus Mackay Dominus Rea Nuncupatus in Regno nostro Scotiæ Dominus, quendam Davidem Ramsey Armiger. In eodem Regno nostra actum, de quibusdam Contemptis & proditionibus contra nos in partibus transmarinis actis & perpetratis, in Curia Militari appellare intendit, Et nobis Supplicavit sibi justitiam, super Appellatione prædicta exhiberi. Nos in hac parte fieri volentes, quod justum est ac de fidelitate & provida circumspectione vestra plenius confidentes vobis concessimus Officium Constabular. Angliæ (hac vice) ad Appellationem prædictam Donaldi in hac parte una cum prædilecto & per-quam fideli Consanguineo ac Consiliario nostro Thoma Comite Arundel & Surr. Mareschal. nostro Angliæ audiend. & fine debito terminand. Et omnia quæ ad Officium Constabular. pertinent in Causa & Negotia prædictis; faciend. & Exercend. secundum Legem & Consuetudinem, Armorum & Curiæ Militaris Angliæ vobis, ut prædictum est, Authoritatem damus & committimus, tenore præsentium: Et ideo vobis Mandamus, quod circa præmissa una cum prefato Mareschallo intendentes sitis, informa prædicta: damus autem Ducibus, Marchionibus, Comitibus, Vicecomitibus, Barombus, Justiciariis, Ballivis, præpositis & Ministris, & Aliis fidelibus nostris universis & singulis, tam infra libertates, quam extra, tenore præsentium in Mandatis quod vobis in præmissis faciend. & exsequend. intendentes sint, & Consulentes, Respondentes, & Auxiliantes, quoties & prout per vos fuerint super hoc præmoniti ex parte nostra. In cujus rei Testimonium has Literas nostras fieri fecimus Patentes. Teste me ipso apud Westm. vicesimo quarto die Novemb. Anno Regni nostri septimo.

Per ipsum Regem.

Which

7 Caroli.

Which Letters Patents being read by the Regiſter of the Court, *Donald* Lord *Rea*, the Plantiff; and *David Ramſey*, Gentleman of the King's Privy Chamber, Defendent, made their perſonal appearance. Then the Lord Marſhal ſpake in defence of the Court of *Chivalry*, and the manner of proceeding therein, according to the Law and Cuſtom of Arms, ſhewing;

'That it was legal and agreeable to Right and Juſtice, as any Judi-'cial Proceſs in any other Court of this Realm; eſpecially when the 'nature of the Cauſe required it. And that in theſe latter Ages this 'kind of Trial hath not bin frequently uſed, but that was to be at-'tributed to the pious and peaceable Government of the State, under 'our moſt happy and prudent King, and his moſt Illuſtrious Predeceſſors, 'the Kings and Queens of *England*, and the Obedience and Fidelity of 'the People of *England*; both which are to be aſcribed to the favour 'of Almighty God, conferring this bleſſing upon our Nation above 'all the Nations round about us.

The Lord *Marſhal* further ſhewed; 'That it was an Error in many, 'to apprehend, that as ſoon as an Appeal is brought into this Court, 'it was preſently to be decided by Duel; when as Dueling was the 'ultimate Trial in defect of all others. And even then it was in the 'Arbitriment of the Court, Whether a Duel ſhall be granted or de-'nied?

The Earl *Marſhal's* Speech being ended, *Arthur Duke*, Doctor of the Civil Law, made a Speech concerning the Antiquity, Juriſdiction, and Neceſſity of the Court of *Chivalry*, held by the Lord *High Conſtable*, with the Earl *Marſhal*, eſpecially in Caſes of Treaſon, where the Truth can no otherwiſe be diſcovered.

Then *Rea* and *Ramſey* were called into the Inner Court, and the one ſtood on the right hand, and the other on the left of the Lord *Conſtable*, and Earl *Marſhal*.

The Lord *Rea* preſented his Appeal in Writing; and his Petition formerly exhibited to the King, was read in theſe words.

To the King's moſt Excellent Majeſty.

The humble Petition of Donald *Lord* Rea.

Moſt humbly ſheweth,

The Lord *Rea* his Petition.

'THat whereas he having heard ſundry Speeches fall from Mr. *Da-'vid Ramſey*, importing Plots and Practices againſt Your Royal 'Crown and Realms, did, according to his Duty and Allegiance, re-'veal the ſame to Your Majeſty; the Truth whereof he is ready to 'maintain with the hazard of his Life, and deareſt Blood, if he be 'thereunto required. Now ſo it is (may it pleaſe Your Sacred Ma-'jeſty) that Your Petitioner (being informed by his Counſel) That 'theſe Trials, by Duel, or ſingle Combat, are *ultimum Remedium*; 'And that a Man may not appeal to this kind of Divine Judgment, 'but where all poſſibility of diſcovery by ordinary Trials fail, and 'cannot be had. And whereas Your Suppliant, at ſuch time as he 'diſcloſed all the Practices which he heard from the ſaid *Ramſey*, and 'did withal diſcover what he heard likewiſe from *Robert Meldrum*;

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'againſt whom alſo one Captain *James Borthwick* hath been examined, 'and the Examination of *Meldrum* taken thereupon. And your Sup- 'pliant conceiving that if *Meldrum* be guilty, the ſaid Mr. *Ramſey* 'cannot be innocent, your Suppliant therefore, not out of any in- 'clination to decline the Combat (as God who knoweth his Heart can 'witneſs with him) but only out of his ſincere deſire to have the 'truth diſcovered, in a Caſe ſo highly concerning your Majeſty's Safe- 'ty, Honour and Government, moſt humbly prayeth, that you would 'be graciouſly pleaſed, that *Meldrum* may be firſt proceeded againſt 'according to Law, and if upon his Tryal, the Conſpiracy affirmed 'by your Petitioner, do not fully appear; he ſhall then with all ala- 'crity (as in a Caſe which otherwiſe cannot be cleared) juſtifie his 'Aſſertions to be moſt true; either as a Defendant againſt the ſaid '*Ramſey*, (who demanded the Combat of him before your Majeſty) 'or as a Challenger if the Court of *Chivalry* ſhall ſo award, and ſhall be 'bound in all Duty ever to pray for your Majeſty's long life and hap- 'py Reign.

The Petition being read, the Lord *Conſtable*, with the Counſel of the other Nobles, declared his Majeſty's pleaſure, that this Cauſe ſhould be tried in this Court, and gave the Appeal to be read as followeth:

'IN the Name of God, Amen. Before you, moſt Illuſtrious and 'Right Honorable Lords, *Robert* Earl of *Lindſey*, Conſtable of '*England*, and *Thomas* Earl of *Arundel* and *Surry*, *Marſhal* of '*England*, or your Lieutenants in this Court-Marſhal: I *Donald* Lord '*Rea* do accuſe and Challenge thee *David Ramſey* in the month of '*May* or of *June* in the Year of our Lord 1630, and in the ſixth Year 'of the Reign of our Lord *Charles*, by the Grace of God King of '*England*, *Scotland*, *France*, and *Ireland*, being then alone in my Ship 'within or near the Port of *Elſinore* in the Kingdom of *Swedland*, in 'the upper part or Deck of the ſaid Ship, when thou hadſt this diſ- 'courſe or the like, and ſpakeſt theſe or the like words to me in '*Engliſh*, viz. You told me many abuſes in the Court of *England*, and 'that there was nothing to be looked for but Deſolation and change 'of Religion, and therefore you had retired your ſelf thence, ſince 'no honeſt Man could live there, and with many ſuch diſcourſes you 'laboured to poſſeſs me: to which my Anſwer was, The Lord mend 'thoſe evils, and no remedy but Patience. *By God Donald*, ſaid you, '(I will uſe your own Phraſe) *we muſt help God to amend it.* You told 'me you had brought as much Gold with you as would maintain you 'at the rate of ſix pounds a day for three years, and you aſſured me 'before that time would expire, God would raiſe up ſome Men to 'defend his Church, and liberate honeſt Men from Slavery. I deſired 'if you could tell if the Marqueſs of *Hamilton* would come over? 'you ſaid, he would the morrow or next day. After I asked you 'what content my Lord Marqueſs had at home? you ſaid, none. I 'asked you what Religion my Lord Marqueſs was? you ſaid, a good 'Proteſtant, and before it be long he would let the world ſee his De- 'ſign was for the defence of his Religion, and the Glory of God, and 'that he ſhould have an Army ſo well provided with brave Men, 'and all Warlike Proviſion, that he ſhould not need to be afraid with 'whom he Encountered. I asked you what advantage was it to us to

'make

7 *Caroli.*

'make a free paſſage for the Goſpel in *Germany*, if we loſt it at home? 'You ſaid there were many honeſt Men in our Land, ſpeaking of '*Scotland*, adding if we had once an Army over, what would you 'think if we ſhould take a ſtart to ſettle them alſo, for ere it be long 'you will hear our Country will go together by th'Ears, ſo cloſing that 'nights diſcourſe. He ſays at laſt, ſome ſuch thing perhaps is intended, 'but I will not tell you more, for my Maſter's Secrets are dear to me. 'The third night after, in an *Iſland*, you told me that *Alex. Hamilton* 'and Sir *James Hamilton*, were to go for *England*, and you for *Hol-* 'land, and in the mean while pretended your ſelf willing to do me 'Service in *England*. I told you I had a promiſe of the Reverſion 'of *Orkney* from the *King* my Maſter; if the Marqueſs would medi- 'ate with his Majeſty for it, he would do me a great kindneſs, and I 'ſaid, It were good for my Lord to have a Friend in that place for 'his ends. You moreover asked me, if there were good Harbours in '*Orkney*, or in my Land, or in any part that might be fortified? I 'ſaid, Yes. You ſaid, *By God it was to be thought upon*; and you de- 'ſired leave to think upon it that night, and on the morrow *You* and '*Alexander Hamilton* did deſire me to write a general *Letter* to the *Mar-* 'queſs, with truſt to the Bearer, *Alexander Hamilton*, concerning *Ork-* 'ney, leſt Letters ſhould miſcarry, with great aſſurance of true Friend- 'ſhip from your Maſter, if I would continue conſtant in Reſolution, 'and ſo I gave you my Letter.

'Afterwards in *March* laſt paſt, you came to me from the *Hague* 'in the *Low-Countries* to *Amſterdam*, where you ſtayed with me eight 'days, and delivered me a Letter from the Marqueſs, only of Com- 'pliment and thanks, and you told me all went right with the *Mar-* 'queſs, That he had gotten from his Majeſty 10000 *l.* in *England*, and 'the Wine Cuſtoms of *Scotland* for ſixteen years, which the *Marqueſs* 'would ſell, and all things went on without any demur or obſtacle, 'and the only ſtay was for want of Arms, Ammunition, and eſpecial- 'ly Powder, and deſired me to put in hard with the *Swediſh* Embaſ- 'ſador, which I did, and you told me that the *Marqueſs* had writ to 'you, that if the Arms and other Proviſions were obtained, they 'ſhould be ſent to *England*, and not to *Scotland*; at which you did 'marvel, becauſe his Lordſhip had changed his reſolution, being all the 'other Proviſions were ſent to *Scotland*. Alſo you told me, that my 'Lord had ſent over a Man to receive them, as I deſired. I told you 'the Letter which Mr. *Lindſey* brought me, deſired the Arms to be ſent 'to *England*. You ſaid, though the Arms were had, yet you would 'not ſend them till you had further order from the *Marqueſs*, and you 'deſired me to haſt to you the anſwer thereof. In the end you told me 'you had evil News to tell me, that the Marqueſſe's Lady was brought 'to bed of a Child.

Some few days after, in *March* or *April* laſt paſt, at *Delf* in the *Low-* '*Countries*, I told you that I had a Letter from the King of *Sweden* to 'the King of *Britain*, deſiring ſome Ships for the *Marqueſs*. You ſaid 'the *Marqueſs* and I muſt beware of that, for then they will think that 'we mean to take their Land from them with their own Ships. I ask- 'ed you, where our Forces ſhould meet? You anſwered me, on the Sea. 'I asked you, where we ſhould land? You ſaid in ſome part of your 'old Maſter the King of *Denmark*'s Countrey. You asked further, 'What think you if we ſhould plunder ſome nook of his Land, and

An. 1631.

* Meaning the Marqueſs and his Accomplices.

'thereafter go where we pleaſe; for we think * he will be the only 'Man that will be moſt againſt us. I anſwered, I am content; for he 'reſts in him more than you all. I asked if my Lord was to raiſe any 'Men in *England*? You ſaid one Regiment. I asked you if they would 'be true to us? You ſaid that there were *Engliſh* that my *Lord* was as 'much aſſured of as of any *Scots*. I asked, where we ſhould make 'theſe meet? You ſaid at *Harwich* or *Yarmouth*. I asked if they were 'fortified? You ſaid, that no parts of all thoſe Coaſts in *England or* 'Scotland could hold us from landing. I told you that I feared Mr. '*Meldrum* was an evil Secretary; you asked me wherein? I ſaid, 'that *Meldrum* had told me many things, and that I thought he had 'told it to others: you ſaid Mr. *Meldrum* knew nothing thereof when 'you came from *England*, tho he might well ſuſpect, and that he ſpake 'once to you to that time, as if all were ours, and that you had great 'patience to hold your hands off him although he was your Couſin. 'I told you that I was not a Souldier of Fortune; but had bread at home, 'and might live without hazarding my ſelf in the Fortunes of War, yet 'notwithſtanding that I would hazard my Life and Fortune with the '*Marqueſs*, only that I would know the buſineſs. You anſwered, you 'would tell me no more of your Maſters Secrets, but that you would 'write a Letter with me to the *Marqueſs*, and when I came there, the '*Marqueſs* would infuſe in me that which you would not; withal you de-'fired me not to tell the *Marqueſs* what had paſſed betwixt you and me, 'whereby the *Marqueſs* ſhould have all the thanks to himſelf; adding 'that he was very cloſe, and that he would diſcover himſelf to them 'that he knew would hazard with him. That my Brother-in-law '*Seaforth* knew all, and that the *Marqueſs* truſted him much. I asked 'you what was done in my buſineſs of *Orknay*? You told me nothing 'till my coming, and ſaid, It might be I ſhould have it better cheap 'than to pay the Duty of it; and you told me *England* had made a 'Peace with *Spain*, very prejudicial to *Holland*; and that *Spain* and '*France* were both ſtriving who ſhould firſt drink up *England*, but 'you hoped we ſhould prevent them both. Beſides you told me the 'lack of Powder was the greateſt Let. As for Arms we might get help 'thereof in every Houſe, and that we had reaſonable proviſion there-'of already; and that my Lord had written to you that he had 90 'Pieces of Cannon great and ſmall already provided. I deſired you 'to go in perſon and ſpeak to the *Swediſh* Ambaſſador for the Pow-'der, and to advertiſe me in the *Brill* of his Anſwer, that ſo I might 'aſſure the *Marqueſs* what he might expect; and you did ſend a Let-'ter by one of your own Men to the *Brill*, to ſhew me that you were 'with the Ambaſſador, and hoped to have that which we ſpake of. 'You asked my advice whether it were beſt to croſs the Seas once, or 'to go on bravely? I anſwered, *Delays were not good*, which you did 'condeſcend unto, or you uſed words and ſpeeches to that effect.

'But if thou the ſaid *David Ramſey* ſhalt deny the Premiſes, or ſay 'thou hadſt not the ſame Diſcourſe, or to the ſame effect with me, at 'the foreſaid times and places; I the aforeſaid *Donald* Lord *Rea*, ſay 'and affirm, That thou *David Ramſey* art *a Falſe Traitor*, and *lyeſt falſly*. 'And in caſe the Premiſes cannot otherwiſe be found out by the Sen-'tence of this Court, proffer my ſelf ready by the help of God, to 'prove and juſtifie this my Accuſation and Appeal, by my Body upon 'thy Body, according to the Laws and Cuſtoms of Weapons in a Duel, 'to be performed in the preſence of our Lord the King, *&c.* Which

7 Caroli.

Which Challenge being publickly recited, the ſaid *Donald* Lord *Rea*, the Party challenging, threw his Glove in the Court, of a red or brown Colour for a Pawn or Pledg, in preſence of the aforeſaid Lord *Conſtable*, and *Thomas* Lord *Marſhal*, in confirmation of all contained in the Bill and Challenge.

Then the ſaid *David Ramſey* anſwered in his own Perſon, and ſaid, 'That the ſaid Bill and Appeal was and is falſe, and that the ſaid *Do-* 'nald Lord *Rea*, the Appellant or Challenger, did lie falſly, and that 'he was ready to juſtify and prove this in Duel, according to the Laws 'and Cuſtoms of Arms, and of this Court, by his Body upon the 'Body of the ſaid *Donald* Lord *Rea*, as it ſhould ſeem good to the 'Court.

Ramſey's Defence againſt *Rea*.

And thereupon in confirmation and juſtification of the Premiſes, he threw his Glove in the Court, of a white colour, for his Pawn, or Pledg, in preſence of the Lord *Conſtable*, and Earl *Marſhal* aforeſaid; Which Gloves reſpectively *Richard* St. *George*, otherwiſe *Clarenceux*, King of Arms, took up and delivered into the hands of the ſaid Lord *Conſtable* with due reverence; and the ſaid Lord *Conſtable*, together with the Earl *Marſhal*, committed them to the cuſtody of the aforeſaid Regiſter of the Court. Then the ſaid Lord *Marſhal* arreſted, as well the ſaid Lord *Rea* the Challenger, as the aforeſaid *David Ramſey* Eſq; the Defendent. And the ſaid *Donald* Lord *Rea* produced Sir *Robert Gordon*, Sir *Piercy Crosby*, Sir *Walter Crosby*, and Sir *William Forbes* Knights and Baronets, and *William Innis* Eſq; for his Sureties, who obliged themſelves all, and every of them, *& diviſim & conjunctim*, to our Lord the King, for the ſaid Lord *Rea*, Body for Body, that the ſaid Lord *Rea* ſhould duly proſecute this aforeſaid Challenge, to the final and laſt determination of the ſame; and that in the mean time the ſaid Lord *Rea* ſhould keep the Peace of our Lord the King, againſt all and every of his Lieges, and eſpecially againſt the foreſaid *David Ramſey* Eſquire.

And the ſaid *David Ramſey* produced for his Sureties, the Right Honourable *James* Earl of *Abercorne*, and *Robert* Earl of *Roxborough*. Then the Earl *Marſhal* aforeſaid releaſed *Donald* Lord *Rea* the Challenger, and the aforeſaid *David Ramſey* Defendent, from the aforeſaid Arreſt, and at their requeſt reſpectively delivered their Bonds of Suretiſhips to be cancelled.

After this there was read in the Court, the Lord *Rea's* Petition to the King, for divers Noblemen and others to be of his Counſel in this Cauſe; whoſe Names he preſented in a Schedule annexed, as they are here recorded.

To the KING's moſt Excellent Majeſty.

The Humble Petition of Donald *Lord* Rea.

The Lord *Rea* his Petition to his Majeſty.

'HUmbly beſeecheth Your Royal Majeſty in this Cauſe of Appeal 'againſt *David Ramſey* in the Court of *Chivalry*, to grant unto 'the ſaid Petitioner, that he may have the Parties, whoſe Names are 'in the Schedule hereunto annexed, to be of his Counſel in the ſaid 'Court. And he ſhall daily pray for Your Majeſty's long Life, and 'happy Reign over us.

George

An. 1631.

George Earl of *Lyney*, Lord *Gorden*.
Miles Vicount *Mayo*.
Theobald Baron of *Brillis*.
Maurice Roch, Son and Heir of the Vicount *Fennoy*.
Donnough Mac Charty, Son and Heir of the Vicount *Muskery*.
Sir *Robert Gordon*.
Sir *Pierce Crosby*.
Sir *Walter Crosby*.
Sir *William Forbes*.
Donnough O Conno Sligo.
James Hay Esq; *of his Majesty's Body*.
William Innis Esquire.
Dr. *Rives*. Dr. *Duck*.
Mr. *Selden*, Mr. *Littleton*, } of the *Inner Temple*.

Upon which his Majesty issued out this following Order.

The King's Order upon the Petition.

It is his Majesty's Pleasure, That only these should serve, both for his Friends to advise him, and his Counsel to plead for him.

Ramsey's *Defence*.

IN the Name of God. Amen. In the presence of you most Illustrious and Right Honourable *Robert* Earl of *Lindsey*, Constable of *England*, and *Thomas* Earl of *Arundel* and *Surrey*, Marshal of *England*, or your Deputies in your Court Marshal; I *David Ramsey* Esq; Defendent, say and affirm, That all and every the things contained in the said pretended Appeal and Accusation, were and are false, and suggested and proposed against me maliciously, and against Truth, excepting what follows at the time and place underwritten; I had the under-written Discourse with thee, or to the same effect, and no other, *viz.*

I *David Ramsey* being with thee *Donald* Lord *Rea*, in the Month of *May* or *June*, as it is in the said Bill mentioned, and in the Ship there also mentioned, being in or near the Port there mentioned, thou desiredst that I would tell thee, If the Marques of *Hamilton* would come over? and I answered he would. And you asking me of what Religion the Lord Marques was, I said, A good Protestant, and before it be long, he would let the World see his Design was for the Defence of his Religion, and the Glory of God. And then asking me whether he would come over with an Army? I said, Yes, with an Army of brave Men, and all Warlike Provision, that he cared not with whom he encountred. Which Passages, upon often and better recollection of my memory and thoughts than heretofore, I do now remember. And you the said *Donald* Lord *Rea*, having then under your Command, two Regiments of Souldiers in Service of the King of *Swedland*, and then and there of thine own accord saying to me, Thou wouldst get leave of the said King to join your said two Regiments with the said Lord Marques his Forces, and serve the said King in the Wars under the Lord Marques. I kindly accepted that motion of yours, and desired to confirm it in you; and I told you, that

Alexander

7 *Caroli.*

Alexander Hamilton and Sir *James Hamilton* were to go for *England*; and you told me you had a promiſe of the Reverſion of *Orkney* from the King your Maſter if the Marqueſs would mediate with your Maſter for it? and I and *Alexander Hamilton* did deſire you to write a general Letter to the Marqueſs, with truſt to the Bearer *Alexander Hamilton* concerning *Orkney*; and aſſured you of the ſaid Marqueſs his friendſhip, if you would continue conſtant in your Reſolution, in joining your Regiments with the Lord Marqueſs, when he ſhould come over, and you gave a Letter accordingly. Afterwards in *March* laſt, I being then at the *Hague* in Imploiment for providing Furniture for the ſaid Marqueſs his Companies, which were to go over into the King of *Swedlands* Service, came to you from the *Hague* to *Amſterdam*, being earneſtly invited thereunto by Letters from you; where I ſtaied with you eight days, and delivered to you a Letter from the Marqueſs only of Complement and Thanks for your Offer, to join your Regiments under the Marqueſs his Command. And I told you all went right with the Marqueſs, and that I heard he had gotten from his Majeſty 10000 *l.* in *England*, and the Wine-Cuſtoms in *Scotland* for ſixteen years, which he would ſell; and all things for his coming over with his Forces went on without any demur or obſtacle; and the only ſtay was, for want of Arms and Ammunition, eſpecially Powder, and deſired you to put in hard for that with the *Swediſh* Ambaſſador, which you did after the Premiſes. And in *March* or *April* laſt, in *Delf* in the *Low-Countries*, you told me, you had a Letter from the King of *Sweden* to the King of *Britain*, to deſire ſome Ships for the Marqueſs. And you ſaid further, That the King of *Sweden* ſaid, He had no Ships to ſpare of his own, but he would write to our King for ſome for him; and that he the ſaid King of *Sweden* would allow 40000 *Rix Dollars* for the entertainment of the ſaid Ships to be always in readineſs upon the motions of his Army. You alſo asked me, if my Lord Marqueſs was to raiſe any Men in *England?* I anſwered, I heard he was to raiſe three Regiments in *England*, and three in *Seotland*. You asked me where theſe Forces ſhould meet? I anſwered, On the Sea. You asked where they ſhould Land? I anſwered, I was doubtful where, becauſe the Rendezvous was to be appointed by the King of *Sweden*; you ſaid further, That you was not a Souldier of Fortune, that you had Bread at home, and might live without hazarding your ſelf in the Fortunes of War; yet that you would hazard your Life and Fortune with the Marqueſs. I anſwered, I knew no more of the Marqueſs his Deſigns, than I had then told you, but that I would write to the Marqueſs to commend to him your forward affection to his Service, or to that purpoſe. I told you, that ſince my being in *Holland*, I did perceive the *Hollanders* did conceive, that *England* had made a Peace with *Spain* very prejudicial to *Holland*; and that divers of them had ſaid ſo in my hearing: which Paſſages concerning the ſaid Peace, upon often and better recollection of my memory and thoughts than heretofore, I do now remember; and I alſo told you, That the lack of Powder was the greateſt ſtay of the Marqueſs his coming over; and you deſired me to ſpeak my ſelf to the *Swediſh* Ambaſſador for the Powder, and to advertiſe you of his Anſwer, that you might aſſure the ſaid Lord Marqueſs what he might expect; and I did ſend one of my Men to the *Brill*, called *John Thompſon*, to ſhew you I was with the Ambaſſador, and hope to have what we ſpoke of.

But

An. 1631. But whereas thou the ſaid *Donald* Lord *Rea* in thy ſaid pretended Accuſation or Appeal doſt affirm, that I ſaid other words to thee, than ſuch as are here ſet down in this my Defence; I the aforeſaid *David Ramſey* ſay and affirm, That *thou lieſt falſly*, and *art a falſe Calumniator*, and oughteſt to be puniſhed with the puniſhment of a falſe Traitor; and I offer my ſelf ready to prove and juſtify, by the help of God, this my Defence and Exception, by my Body upon thy Body, according to the Law and Cuſtom of Arms in a Duel, to be performed in the preſence of our Lord the King. And I humbly and inſtantly deſire, that a Day and Place may be aſſigned for the ſaid Duel, *&c.*

Then was read in Court the Petition of *David Ramſey* to the King, beſeeching his Majeſty to aſſign him the Perſon, whoſe Name was written in the Schedule annexed, to be of Counſel with him in this Cauſe, the Name written in the Schedule was Mr. Doctor *Eden*. The Witneſſes in this Cauſe were commanded to make their perſonal appearance in the Court, and were there examined, and divers Letters written, as well from Marqueſs *Hamilton* as from *Ramſey*, to the Lord *Rea*, were then produced.

Mr. *Ramſey* had bin releaſed from Impriſonment in the *Tower* upon Bail, and his promiſe to appear before the Earl *Marſhal* of *England*, or ſuch other Perſons as his Majeſty ſhould appoint, at ſuch Time and Place as ſhould be aſſigned unto him, upon three days warning; in the mean time to keep the Peace, and to confine himſelf to *Richmond*, having the liberty of three miles walk, with this acknowledgment, That in caſe of abſenting himſelf from ſuch Appearance, or breaking the Peace, he will be accounted guilty of the Crime, for which he ſtood committed. And for the performance of this Engagement, the Earls of *Abercorne* and *Roxborough* entred into a Bond of *Four thouſand* pounds to the King.

A while after *Ramſey* entred in the Court a Proteſtation of the Tenor following.

Ramſey's Proteſtation.

'WHereas in Obedience to his Majeſty's Commands, and in conformity to this Honourable Court, I have heretofore, contrary to ſuch Intentions as ſeemed to me moſt reaſonable, procured 'ſome Perſonages to ſtand engaged for my perſonal appearance in this 'Court, concerning this pretended Cauſe; and have, in obedience and 'conformity as aforeſaid, uſed the Counſel of Dr. *Eden*, aſſigned unto 'me for that purpoſe by his Majeſty, as Defendent in the ſaid Cauſe. 'And whereas at my firſt appearance, upon ſight of my Lord *Rea's* 'Bill, I accepted of the Trial by Combat, and ever ſince avoided and 'waved all Courſes uſually propoſed by Defendents to avoid the Combat, which at this preſent I am ready to entertain: And whereas 'ſince from the Premiſes, and the Lord *Rea's* pretences of proving 'new Matters, the final Decree in this Cauſe, to my great prejudice 'in my other occaſions, hath bin from time to time put off, and nothing as I conceive, under favour of this Honourable Court, proved 'againſt me, either to convince me of any Matter objected againſt 'me, or to urge me by the Law of Arms to ſubmit my ſelf to Trial 'by Combat, if I had a deſire to decline it. I do here again once 'more, and that moſt inſtantly, deſire a certain Day and Place to be 'aſſigned and decreed for the Combat between the ſaid Lord *Rea* and 'me, for the Trial of the Matter in iſſue between us in this Honourable 'Court;

7 Caroli.

'Court; and I do with all humbleneſs deſire of this Honourable 'Court, that after all theſe delays uſed on the Lord *Rea*'s behalf, I 'may now betake my ſelf to my ſaid firſt Intentions; and therefore I 'do proteſt, that ſo much as in me lieth, I do now diſingage, and do 'deſire this Honourable Court for ever after this time, to hold for 'diſengaged thoſe honourable Perſonages that are bound for my per-'ſonal appearance. And I do humbly deſire to know what his Ma-'jeſty's further pleaſure is concerning me, ſince I came hither upon 'his Majeſty's command by Letters, and am here ready to ſatisfy my 'Loyalty as his faithful Servant, with the hazard of my Life.

And ſo inſtantly deſiring and urging to be releaſed of his Obligation, and that his Sureties might be likewiſe releaſed, he was remanded to the *Tower* of *London*, and his Sureties were releaſed, and the Bonds were rendred to them.

At another ſitting, when Dr. *Duke* moved divers things in behalf of the Lord *Rea*, declaring, That with due reverence he ſubmitted to the Court in all things. The Earl *Marſhal* made anſwer, that the Lord *Rea* had governed himſelf in the whole Proceſs of the Cauſe, with much Prudence and Moderation, and wiſhed that *Ramſey* had uſed the like Moderation in his Defence. And he further ſaid, That now it ſeems neceſſary to lay open the Series of the whole Buſineſs: and ſo continuing his Speech, he ſhewed that our Soveraign Lord the King, ſo ſoon as he had knowledg of the Crime objected, did uſe all diligence to find out the Truth, and called the Parties before him; and the Lord *Rea* conſtantly affirmed the Truth of theſe things, and offered to juſtify the ſame with the hazard of his Blood and Life. And Mr. *Ramſey* on the other part with the like conſtancy denied the Accuſation, and ſaid, he would prove it falſe againſt the Lord *Rea* by Duel, if it ſeemed good unto his Majeſty. And that the King obſerving the confidence of the Parties, and the defect of other Proofs, and the Parties free choice of Duel, conſulted about the way of a publick Duel by the Authority of this Court, and took care to be informed of the Proceedings and Cuſtoms thereof. That it was certain, that this Court was the only Publick Judicature, to which the Cognizance of Treaſons committed beyond Sea appertained before the time of *Henry* the *8th*; and that the Statute of *26th* and *35th* Years of that King, concerning another manner of proceeding therein, was not derogatory to the Authority of this Court, but only ſuperadded another way of Trial. That all private Duels were accounted and are unlawful, but Publick Duels decreed by the Authority of this Court, were always granted to be lawful in Caſes of Treaſon, when for the ſafety of the King and State, the Truth would not otherwiſe appear. That his Majeſty therefore conſented to the Requeſts of theſe Parties, that they ſhould fight a Duel for the diſcovery of the Truth in this behalf; and therefore he conſtituted and confirmed this Court under the Great Seal of *England*. That the Lord *Conſtable*, and he the Earl *Marſhal*, according to the King's *Letters Patents*, together with thoſe Noble Perſons that were of Counſel with the Court, had heard with patience whatſoever was alleadged on either ſide; and that there were three ways of determining things of this nature in this Court uſed by our Anceſtors.

First; To abſolve the Accuſed; which in this Caſe, the Nature, Quality,

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lity, and Circumſtances of the Fact and Crime objected being conſidered, cannot be.

Secondly, To condemn the Accuſed when the truth of the Crime objected evidently appeareth by Witneſſes, or any other way; which in this Caſe hath not been, nor ſeemeth poſſible to be, when out of the Accuſation it ſelf, it appeareth that the words were ſpoken ſecretly, and not before Witneſſes.

Thirdly, By way of Publick Duel, to the decreeing whereof the Lord *Conſtable* and himſelf, with the aſſent of thoſe Honorable Perſons of Counſel with the Court, did intend to proceed.

Then the Lord Conſtable together with the Earl Marſhal demanded of the Parties, Whether they had any thing more to ſpeak or propound in this Cauſe? They ſeverally anſwered they had nothing more. The forenamed Lords asked the Lord *Rea*, whether he would finally acquieſce in his forementioned Bill of *Appeal?* whereunto he anſwered he would therein acquieſce. Then they asked *Ramſey*, whether he would acquieſce in his anſwer to the Bill of *Appeal?* whereunto he alſo anſwered, that he would therein aquieſce. After this, the Regiſter read in Court the Lord *Rea's* Bill of Appeal, and *Ramſey's* Defence in the preſence of the parties. Preſently the Lord *Rea* ſealed his Bill with his Seal at Arms, and ſubſcribed his name with his own hand. After the ſame manner Mr. *Ramſey* ſealed and ſubſcribed his Anſwer.

Then the Lord *Conſtable* taking the *Appeal* in his hands, and folding it up, put it into the Glove which the Lord *Rea* had caſt forth in the Court for a pawn in this behalf, and held the Bill and Glove in his right hand, and in his left hand the Anſwer and Glove or Pawn of *David Ramſey*, and then joyning the Bill and Anſwer, and the Gloves, and folding them together, he with the Earl *Marſhall*, adjudged a Duel between the parties under this form of words.

In the name of God the Father the Son and the Holy-Ghoſt, the Holy and moſt Bleſſed Trinity, who is one, and the only God and Judge of Battels; We, as his Vicegerents under the moſt excellent Prince in Chriſt our Lord and King, by whom we are deputed to this, Do admit you the aforeſaid Donald Lord Rea, the Party Challenging, and you the aforeſaid David Ramſey, the Defendent, to a Duel, upon every Accuſation contained in this Bill and the Anſwer to the ſame; and we Aſſign unto you the twelfth day of the Month of April next following, between Sun and Sun, in the Fields called Tuttle Fields, in or near Weſtminſter, in the preſence of our Lord the King, to do and perform your parts to your utmoſt power reſpectively.

And we Will and Enjoyn you the aforeſaid Lord Rea the Challenger, to be in the aforeſaid Fields, and within the Liſt there, between ſeven and nine of the Clock in the forenoon of the aforeſaid day. And we enjoyn you the aforeſaid David Ramſey the Defendent, to be in the Fields in the foreſaid Liſt between nine and eleven of the Clock in the forenoon of the ſaid day, upon Peril attending you reſpectively in that behalf.

Which Decree and final Sentence pronounced, the Lord *Rea* craving pardon of the Court, ſpake to this Effect: Firſt, he gave thanks to the Lord *Conſtable*, the Earle *Marſhal*, and the reſt of the Lords, that they had with ſo much Patience and Juſtice heard and examined

amined this Cauſe, and for the Juſtice therein exerciſed eſpecially for the Sentence already given. Then he proteſted before Almighty God and that Court, that he had revealed nothing againſt *David Ramſey*, or any other, for Malice, or Hatred, or hope of Reward, either Gain, or Honour, but only out of his Faithfulneſs to our Lord the King, and for the ſafety of his floriſhing Kingdoms, knowing that nothing is more pernicious to Kingdoms and Commonwealths than inteſtine Wars. He profeſſed that if he himſelf had not revealed the premiſſes, but ſome other acquainted with the Treaſon had firſt diſcovered it, he without all doubt had deſerved the death of a Traytor. And whereas it might be ſaid, that he by revealing it had hazarded his own Life. To this he anſwered, that he was unworthy of all Honour, yea of Life it ſelf, that was not ready to lay down, much more to hazard his own Life for the Safety of King and Kingdom. And whereas he might ſeem in the proceſs of this Cauſe to have declined a *Duel*; he deſired to be underſtood that whatſoever was done in that behalf, he did in hope and expectation that the Treaſon which was communicated to many, might be ſome way brought to light. For he did neither diſtruſt his own Cauſe, nor fear the Perſon of his Adverſary, nor any other in ſo juſt a Cauſe, only in this he greived, that an Adverſary equal to him in Birth, Degree, and Nobility, was not offered. And whereas many wondered that he would hazard his Life for revealing words, whereof he was doubtful whether they would amount to Treaſon or not. He ſaid, he knew much more concerning the Treaſon, than what was contained in this Bill, which by the interpoſing of Authority, was for juſt Cauſes yet to be ſuppreſſed.

7 *Caroli.*

As for the *Duel* now decreed, he profeſſed that he embraced the Sentence with all chearfulneſs, and deſired no further delay of the Combat, than that in the mean time he might provide himſelf with ſuch neceſſaries for this Duel as became his Stock and Kindred, and the Combatant and Champion of ſo great a King. That he had no private hatred to the Perſon of *David Ramſey*, but was now to encounter him, being by the Court declared his publick Enemy. And ſo having prayed to God for his Majeſty's ſafety, and happy Government, and imploring the favour of the Court, he made an end of ſpeaking.

After this the Court aſſigned to both Parties a day, whereon to make ſuch Propoſitions as they would think fit.

Then the Lord *Rea* deſired, that the Crimes and Words by him objected in his Bill againſt *David Ramſey*, might be declared Treaſonable, and that *Ramſey* were guilty of Treaſon, if he uttered thoſe Words: which the Court with an unanimous Conſent did declare ſo, and adjudg.

Ramſey moved that a ſhorter time, and ſome day within the 12*th* of *April* might be aſſigned for the Duel, ſaying that he would ſoon compel the Lord *Rea* to confeſs the falſhood of the Crime objected, if he would meet him in place convenient.

The Lord *Marſhal* anſwered, that the day was determined; and further intimated to both Parties that they were to be attached and kept in ſafe Cuſtody, if they gave not ſufficient caution for their appearing at the day and place appointed, and in the mean while for keeping the Peace. For the performance whereof on his part the Lord *Rea* produced Sureties, namely Sir *Peirce Crosby*, Sir *William*

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Forbes, Sir *Walter Crosby*, Knights and Baronets, and *William Jones* Esq. who bound themselves to the King Body for Body.

Then Mr. *Ramsey* being asked, whether he would bring forth Sureties? Answered, that he was ready in the Word and Honour of a Gentleman, to oblige himself to whatsoever in that regard should be by the Court enjoyned, but as for Sureties that he had none, or at least desired none; That it was troublesome for him to engage Noble Persons, who had in other respects interposed in this behalf. Whereupon the Lord *Rea's* Advocate desired that *Ramsey* be committed to the *Tower* till the day appointed for the Combat.

Then *Robert* Earl of *Roxborough* publickly offered, and said that himself and *James* Earl of *Abercorn* were ready to put in Caution for *Ramsey*, if the Court would admit them; and *Walter* Earl of *Balclough* made the same offer, and the Court admitted them, (although the Lord *Rea's* Advocate alleadged many things to the contrary) and they became bound Body for Body. Whereupon *Ramsey* was released from his Imprisonment in the *Tower*.

The Lord *Constable* and Earl *Marshal* admonished both Parties to keep within the bounds assigned them; to wit, That the Lord *Rea* should not go Westward beyond *Charing-Cross*, nor Mr. *Ramsey* beyond *Whitehal* Eastward. These bounds they might not pass without the special Licence of the Court, or some just and reasonable Cause.

The Weapons which the Court assigned to the Combatants, were a *Spear*, a long *Sword*, a short *Sword*, and a *Dagger*; each of them with a point.

Then the Lord *Rea* presented these Protestations to the Court.

Lord *Rea's* Protestation or Petition to the Lords *Constable* and *Marshal*.

First, He did humbly desire of the Right Honourable Judges the Lord *Constable* and Earl *Marshal*, that his Arms and Weapons might be assigned him for to aid himself therewith against his Adversary in the day and place to him assigned: And also in any other day and place, if any should be assigned him; and that he might have no Weapon of advantage, and that he might be received into the Lists or Feild with those Arms as shall be assigned him, and armed in what sort he should please; and that he might have with him all other things needful and accustomed by right to aid himself at need against his Adversary although they be not expresly written; and desired that his Adversary, should have no other Weapon, nor of other size than those that he the said Lord *Rea* should have: And if the said Adversary should bring into the List any other Weapons, or of other size than the Court should assign him, that such Weapon should be taken from him, and that he be allowed no other.

The Order of the Court.

It seemed reasonable to the Court, that he should be received into the Lists armed as is fit: And as for the Weapons, was to have a *Spear*, a *long Sword*, a *short Sword* and a *Dagger*, each with a point, as above said, and for the rest the Court would do reason, according to the Custom and Law of Arms.

Item, The said *Challenger* did pray that his Counsel might be received into the Lists or Field with him, for to counsel him what should be needful, and that he might have a *Chirurgeon* with his Ointments and Instruments to serve and aid him when need required, and he did pray, that his Counsel might remain with him, until the words *Lesser les Armes* were cried.

The

7 *Caroli.*

The Court willeth, That he ſhall have ſufficient Counſel, a Chirurgeon with his Ointments and Inſtruments within the ſaid Liſts, as appertaineth, until the words *Leſſer Les Armes* be pronounced.

Item; He did pray, That he might have within the ſaid Liſts or Fields, a Seat or Pavilion, or other Coverture to reſt himſelf, that he might have Bread, Wine, or other Drink; Iron-Nails, Hammer, File, Sciſſars, Bodkin, Needle and Thread, Armorer and Tailor with their Inſtruments, and other Neceſſaries to aid and ſerve him in and about his Armour, Weapons, Apparel and Furniture, as need required.

The Court willed, That he have a Seat and ſuch Coverture as he ſhall pleaſe, without fixing any thing in the Ground; Bread, Wine, and other Neceſſaries, in ſuch caſes requiſite, till the words *Leſſer Les Armes* were pronounced.

Item; He did pray, that he might have liberty to make trial of his Arms and Weapons within the Field, to put them off, and to put them on, and change them at his pleaſure; to nail, faſten, or looſe his Arms and Apparel, and other things needful; to Eat and Drink, and to do all other his Neceſſities.

The Court granted until the words *Leſſer Les Armes* were pronounced.

Item; He did pray, That after he did once come into the Fields and Liſts, that his Adverſary ſhould not be permitted to make him ſtay and attend too long, under pain of being Convict.

To this the Court returned anſwer, *The Court will do you reaſon.*

Item; He did pray, That if it ſhould happen, either by the delay of his Adverſary, or any other Impediment, that he ſhould not be able to prove his intent upon his Adverſary in the day aſſigned him, between Sun and Sun, that then he might have further time and day allowed and aſſigned him for the proof thereof on his ſaid Adverſary.

To this the Court anſwered, *The Court in this Caſe will do as anciently hath been uſed according to the cuſtom and Law at Arms.*

Item; He did pray, That the Field and Liſts might be well and ſafely guarded for him until the end of the Battel, and as well in the Night as in the Day, until that with the Aid of God he ſhould make good, and prove his intent upon his Adverſary.

It was anſwered, *The Court will do herein as is right.*

Item; He did humbly pray, That if God ſhould ſo diſpoſe, as that he died in the proſecution of this his righful Appeal in this behalf, that then his Heirs, without any impeachment or hinderance, might take his Body and give it Chriſtian Burial, in ſuch place as he ſhall appoint by his laſt Will and Teſtament.

It was anſwer'd, *This muſt be at the King's pleaſure.*

Item; He did pray, That notwithſtanding that the cuſtom of Arms will, that he ſhould bear into the Field certain things neceſſary for him, that theſe, or ſome of theſe things, may be brought by others in eaſe of him, and that they might be ſaved and carried back for him, if in caſe God ſhould pleaſe to give him the Victory, as he may of his ſpecial Goodneſs and Mercy.

Hereupon this Order was made by the Court;

The Court willeth that you do herein according to the Cuſtom of Arms uſed in like Caſes before this time.

Order of Court.

Item;

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Item; He did desire, That the same day when with God's help he did intend to prove his Intent upon his Adversary, he might have all other things necessary for him, and accustomed by Right and Law of Arms, although they were not expressed in these his Protestations.

To this it was answered, *The Court herein will do that which shall seem reasonable unto them.*

Item; He did pray, That these his Protestations, nor the Copy of them, might be delivered nor shewed to his Adversary, nor to any of his Counsel, or other Person, whereby his said Adversary might have knowledg thereof: Further praying, and desiring that these his Protestations and Demands might be graciously granted unto him, by those Honourable Lords, as the Right and Law of Arms did require.

It was answered, *The Court would herein do that which should be reason.*

Item; He did pray, That it might be lawful for him to go or ride into *Tuttle*-Fields, in or near *Westminster*, at his pleasure, and so often as he should think fit, to view the Ground which should be assigned him for the proving of his Intent, and for such other ends as should be most for his advantage for the proving his intent upon his Adversary.

Order and Answer.

To this the Court answered, *It seemeth reasonable unto the Court, that at convenient times, which should be signified and expressed under the hands of the Lord* Constable *and Earl* Marshal, *what should be lawful for him to do as was desired.*

Item; He did humbly pray, That since by the Law and Custom of Arms, and of the Honourable Court, the Defendent is never to be allowed Counsel, nor to have any Assistants, nor to have any Petitions of Favour granted, except in due time he shall have desired, or shall have protested that he would desire them. And that in this Case his Adversary publickly hath protested against the having of Counsel, and all other Aids and Assistants in this Court, as by the Acts of the Court appeareth, he humbly prayeth that he might not have any Counsel, nor Aids, nor Assistants assigned unto him in this behalf; and that no Petitions or Protestations (if he shall make any) might be granted unto him; and in this he humbly desired the Justice of that Honourable Court.

Answer was made, *The Court would do herein upon consideration, as to the Custom and Law of Arms appertained.*

The Dimensions of the Weapons were as followeth.

A *Long Sword*, four foot and a half in length, Hilt and all; in breadth two inches.

Short Sword, a yard and four inches in length, Hilt and all; in breadth two Inches.

Pike, fifteen foot in length, head and all.

Dagger, nineteen inches in length, Hilts and all; in breadth an inch.

The Weapons were not to exceed this Proportion, but the Parties might abate of this length and breadth if they thought fit.

These Protestations and Petitions were accepted and registred.

Afterwards Mr. *Ramsey* presented a Petition to the Lord High *Constable*, and to the Earl *Marshal*. *Ramsey's*

Ramſey's Petition.

To the Right Honourable the Lord High Conſtable, *and the Lord* Marſhal *of* England;

The humble Petition of Mr. David Ramſey, *Gent. of his Majeſty's Privy-Chamber in Ordinary.*

Shewing,

'THat in regard there can be no Preſident ſhewed forth by Authentical Record, whereby the choice of Arms was ever heretofore permitted or granted to the Challenger, or refuſed to the Defender, ſutable to the Cuſtom and Law of all Chriſtian Nations; as likewiſe in regard the Challenger himſelf, as I ſuppoſe being aſhamed of his Proteſtations and Demand for Defenſive Armour, has in good Company denied the ſame, and aſcribed it to your Lordſhips impoſing. He therefore according to the ſaid Law of Nations, and Cuſtom of the Kingdom, doth humbly intreat that there be no other Arms allowed for the Trial, than ſuch as he hath bin already Suitor for, (*viz.*) *Rapier* and *Dagger*, as being in the number of ſuch as your Lordſhips were pleaſed to nominate, which are the moſt common in all Gentlemen's Opinions, and that are carried by all and every Man that is acquainted with the management of them.

'Laſtly, Intreating, That if there chanced to be found any want or miſtake in the formality of this, that your Lordſhips will be pleaſed to paſs over the ſame, and attribute it to the abſence of the Lawyer allowed by your Lordſhips, having now no other Counſel than the Juſtice and Equity of his Demand. And as in Duty bound, he ſhall never be wanting, either in Action or Speech, to ſhew his gratitude for theſe your Lordſhips ſo juſt and noble Favours.

To the foregoing Petition, this following Anſwer was returned.

Decimo Aprilis 1632.

The firſt part concerning my Lord *Rea*, the Lords having called Sir *William Balfour*, (the Witneſs vouched by Mr. *Ramſey*) and heard him, but could not prove what was alledged.

The ſecond part, concerning the Election of Arms, the Lords thought it was not fit to be granted, the Cuſtom of this Court being otherwiſe, and other Arms being already aſſigned by the Court.

On the 10*th* of *April Rea* and *Ramſey* appeared again before the Court, ſitting in the *Council Chamber* at *Whitehall*; at which time the Lord High *Conſtable* and the Earl *Marſhal* ſignified to the Parties, That it was the King's Pleaſure, for certain juſt and urgent Cauſes, to prorogue the day of Combat, from the 18*th* of *April*, to the 17*th* of *May*; and they prorogued the ſame accordingly; and required *Rea* and *Ramſey* to appear in *Tuttle-fields*, upon the day laſt aſſigned, at the hours appointed in the former day: for the performance whereof, both the Challenger and the Defender produced their ſeveral Sureties, and the Cautions and Sureties for the former day were by the Court remitted.

The

An. 1631. The Lord *Rea* deſired to know the pleaſure of the Court, whether he might uſe Defenſive Arms? and in caſe he might, whether according to his own diſcretion, or as the Court ſhall regulate?

The Judges of the Court anſwered, That the Offenſive Weapons and their Dimenſions were aſſigned by the Court already; but both Parties might uſe Defenſive Weapons at their own diſcretion.

May the 12*th* the Court reaſſembled, and the Parties were called, and anſwered to their Names.

Then the *Conſtable*, together with the *Marſhal*, declared, That upon hearing and examination of this Cauſe, they had not found *David Ramſey* guilty of *Treaſon*, nor was the Treaſon intimated made appear by the Lord *Rea*, though he had ſo long time attempted it; yet they found that he had ſeditiouſly committed many contempts againſt his Majeſty, the reformation whereof his Majeſty reſerved to himſelf; and therefore the Court Decreed, That they (the ſaid Lord *Rea* and *David Ramſey*) ſhould both be committed to the *Tower* of *London*, till by Sureties to be approved by his Majeſty, they gave in ſufficient Caution, that neither in their own Perſon, nor by any in their Families, nor by their procurement or aſſent, they would attempt any thing one againſt the other, and that ſo long, till it ſeemed good to his Majeſty to ſet them at liberty; and ſo they were both arreſted by order of the Lord *Conſtable* and *Marſhal*, and by *Serjeants at Arms* delivered over to Sir *William Balfour*, Lieutenant of the *Tower*.

Then a Letter was brought from his Majeſty by *Richard* St. *George*, King of Arms, to the Lord *Conſtable* and *Marſhal*, by which his Majeſty revoked his *Letters Patents*, given to the ſaid Lords for the Trial of this Cauſe, not willing to have it decided by Duel. And ſo there was nothing more done in it.

But now let us return to Marqueſs *Hamilton*, where we left him in his Quarters in *Germany*, who loſt no time after the Battel at *Lipſick*, but went himſelf to the King at *Worben*, paſſage being then more open. The King excuſed his not ſending the Forces he had promiſed, for that he was reſolved ſpeedily to give *Tilly* Battel, and ſo could not weaken his Army, and appointed the Marqueſs to remove from thoſe Villages near *Stetin*; and accordingly on the 20*th* of *September*, the Army went up the *Oder* from *Stetin*, ſome pieces of Ordnance they carried with them by Land, and the reſt by Water, and according to order were quartered about *Cuſtrein*, *Frankfort* upon the *Oder*, *Landſbergen*, *Croſar*, and places thereabouts; where a third part of his Army languiſhed and died of the Plague, and other Sickneſſes.

The Marqueſs had not bin long at his Quarters at *Cuſtrein*, when he received Orders to beſiege *Magdenburgh*, wherein were 3000 Men: The Marqueſs's Army being then very feeble by ſickneſs, the King of *Sweden* ſent *Bannier* with 3000 Foot and 1000 Horſe to join with him, and to block up and beſiege *Magdenburgh*; which they ſo ſtreightned, as on *Chriſtmaſs Eve* they came to a Parley. But on the ſecond day of their Treaty, one of the Count *Mansfields*, their Governor, had notice that *Papenheim* was coming with Relief; whereupon the Treaty broke up, and *Bannier* would have bin retiring: But the Marqueſs preſſing his ſtay, he produced his Orders to command all the *Dutch* and *Swediſh* Forces, and not to hazard an Engagement; whereas

that

7 *Caroli.*

that gallant Commander, Sir *Jacob Aſhly*, (who was then with the Marqueſs) viewing the Paſs deſigned for the Marqueſs's Retreat, in caſe *Papenheim* did advance, aſſured the Marqueſs and *Bannier*, they might in leſs than an hours time march away in ſpight of *Papenheim*'s Army, and therefore not yet to remove, was his advice: whereupon the Marqueſs propoſed to *Bannier* to fight *Papenheim*; but *Bannier* not willing to hazard his Men, marched away; ſo *Papenheim* afterwards advancing, got into the Town, and carried away the Garriſon of Souldiers, and ſome Ordnance, with Ammunition, and ſo quitted *Magdenburgh*, yet left ſome Cannon behind him, (having not Draught-Horſes to carry the ſame away, nor intending to make that Place a Garriſon any longer): There the Marqueſs did ſtay till the beginning of *February* 1631, *Engliſh Style*; and the King ordered him to march to *Halberſtadt* to quarter his Army thereabouts.

As to the Negotiation of Sir *Henry Vane*, his Majeſty's Ambaſſador to the King of *Swedland* now in *Germany*, take this brief Account.

The Ambaſſador's Inſtructions.

Sir *Henry Vane* had in Commiſſion firſt to go to the King of *Denmark* to remove all ſuſpicion out of his mind, and firmly to reconcile him to the King of *Sweden*.

Secondly, To move the Princes and Republick of *Germany* to take part with the *Swede*.

Thirdly; To make ſtrict Peace between the Crowns of *Poland* and *Swedland*.

And laſtly; To enter into a League with the King of *Sweden* upon Emergent Occaſions.

The Ambaſſador after his arrival at *Gluckſtadt* came to *Erford*, from whom the Marqueſs received this enſuing Letter.

The Ambaſſador writes to *Hamilton*.

My Lord,

THe firſt of mine which this Bearer will give your Lordſhip, will tell you the extreme regret I have had ſince my coming into theſe Parts, that I could not have the honour to hear from your Lordſhip, yea, ſcarce hear of you.

I received your Lordſhip's of the 20th, delivered me this evening by one I ſent to Lipſick, *my ſelf being hindred from going that way, in regard the Enemy lay between* Brunſwick *and* Lipſick, *ſo as I could not paſs without danger, which cauſeth me to take the way of* Erford. *To morrow I ſet forward towards* Wirtſbourgh, *which his Majeſty of* Swedland *hath aſſigned me for my Audience; which as ſoon as I have had, I ſhall diſpatch an Expreſs to your Lordſhip, and be glad to receive your Lordſhip's particular Commands, of which I ſhall be as vigilant and careful as if they concerned my ſelf. I hope yet ſome one of your Lorſhips will overtake me before I ſhall ſee the King; for it will be* Thurſday *before I ſhall arrive at his Court, and I preſume it will be four or five days before he will give me Audience.*

Erford, *Octob.* 27. 1631.

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The Ambaſſador excuſes his not waiting on the King of *Denmark*.

The Ambaſſador, after his arrival, underſtood that the Duke of *Saxony* being become deſperate, by reaſon of *Tilly's* Inſolency in his Country, had joined himſelf with the *Swedes*, and that when their Armies were united, had obtained a glorious Victory upon the Emperor's Forces near *Lipſick*; and that the King of *Sweden* making uſe of that Victory, was gone forward as far as *Franconia*: judging therefore that it concerned him to make haſte, he excuſed himſelf by a Letter to the King of *Denmark*, and went forthwith to *Wirtzburgh*, where he continued for ſome time. At length he was admitted to Audience, firſt at *Franckfort*, then afterwards at *Mentz*, but it was the latter end of *January* before he had Audience.

Admitted to have Audience in *January*.

We give you here the ſubſtance of what paſſed between him and the King of *Sweden* on the 29*th* of *January* 1631, at *Franckfort* on the *Main*, as followeth.

'THe Ambaſſador at his firſt Audience with the King of *Sweden*, on '*January* the 29*th*, according to our Style, told the King, That 'he had come ſooner, but that his Majeſty's Command ſtaied him at '*Mentz*. The King bid the Ambaſſador welcome, and told him, he 'heard the King of *Bohemia* was upon his way to come up to him; 'and asked him, when he thought he ſhould be here? To which the 'Ambaſſador anſwered, he thought to morrow. At which the King 'ſtarted, and ſaid, it could not be: the Ambaſſador replied, he thought 'yes, for he had received ſuch advertiſement from the States Agent at '*Collen*; and ſaid further, the King of *Bohemia* was come in conformi-'ty to his Majeſty's deſire unto him; and that he hoped his Majeſty 'would take his Cauſe actually in hand, according to his public *Manife-'ſto*, whereby he would acquire to himſelf much Honour, becauſe none 'was ſo much wronged and oppreſt as he. The King replied, he would 'firſt make an Alliance with the King of *Bohemia*, and would be alſo 'glad that the Alliance between himſelf and the King of *Great Bri-'tain* ſhould proceed; and asked the Ambaſſador, whether he had 'plenary Power? and whether the King of *Great Britain* would 'make the Confederation perſonal with him, or not? and whether he 'would be content to give Mony and not Men? To the firſt he an-'ſwered, he had Plenary Power; and that for the perſonal Confede-'ration between the two Crowns, his Maſter was content to accept 'it; and for Mony in lieu of ſending Men, he thought an Expedient 'might alſo be found for that, providing his Majeſty would undertake 'the Reſtitution of the King of *Bohemia* unto his Eſtates and Digni-'ties, and not to lay down his Arms until both were effected. All 'but this Condition he liked well; but to that he anſwered, he could 'not do that without having War with *France* and *Bavaria*; and that 'in the late Treaty between *France* and the *Catholick League* concern-'ing the Neutrality, there was an Article; but as for that of *Bavaria*, 'it ſhould be remitted to a future Treaty between the Kings of *Britain* 'and *France*; and for what he held of the *Spaniards*, he was willing 'to return. The Ambaſſador anſwered, That that Article, and all 'others in that Treaty, was as much to the prejudice of the King of '*Bohemia* as could be, and conſequently to his Maſter's Ends; and he 'wiſhed in the end it might not prove diſadvantagious to the proſpe-'rity of his Affairs, by being too long amuſed, which could not be but

'advanta-

7 *Caroli.*

'advantagious to his Enemies, and of dangerous conſequence to himſelf 'and the Cauſe; that for his part he did not think it counſellable for 'his Maſter to make an Alliance with his Majeſty of *Sweden*, upon the 'hopes of a future and contingent Treaty between *Britain*, *France*, 'and *Bavaria*: But if his Majeſty would oblige himſelf to perform the 'Conditions he propoſed, he the Ambaſſador was ready to begin the 'Treaty to morrow. And the King replied that he could not ſtipulate 'to make War upon *Bavaria* at this preſent, but it might be hereafter, 'and if the King of *Great Britain* would follow his Counſel, he thought 'it might either be done by War or Treaty, and ſaid, if we had con-'cluded before the arrival of the *French*, he could then have undertaken 'War upon *Bavaria*, but it was not for him to undertake againſt the 'Houſe of *Auſtria*, *France* and the Leagues, if he could by means of 'the Neutrality lay *France* and the Catholick League by.

'The Ambaſſador anſwered, For our coming too late, there was no 'fault to be juſtly imputed to us; for had his Majeſty of *Sweden* de-'manded reaſonable Conditions, the Alliance had been concluded: but 'Leagues, and Buſineſs of ſo great Importance, could not but have ſlow 'motions; yet he beſought his Majeſty of *Swedland* to give him leave 'to commemorate the proceedings of his Maſter towards him ſince his 'Majeſty's coming into *Germany*, viz. that he had permitted him to make 'as many Levies of his Subjects as he had deſired; That he had ſince 'ſent the Marqueſs of *Hamilton* to him with a Royal Aſſiſtance, and ſo 'opportunely, as it could not be denied but that the Marqueſs landed 'his Army at a ſeaſonable time, to the amuſement of the Emperor, 'and the encouragement of the Confederate Proteſtant Princes, as 'appeared by the effects that followed thereupon, by the ſpeedy uni-'ting of their Army under his Command. And that though his 'Swediſh Majeſty, next under God, was the only immediate Inſtrument 'to whom the Glory of this great Revolution was to be attributed, 'yet it could not be denied but that the Subjects of *Great Britain* had 'done him great and Remarkable Service, both in theſe and his former 'Wars, and that theſe were neither to be concealed nor forgotten, 'nor the real Aſſiſtance now ſent unto him.

His Majeſty of *Sweden* acknowledged, 'that the King of *Great Bri-'tain* had proceeded with him as a Friend; that he was a wiſe and ver-'tuous Prince, and that none could wiſh more proſperity to his Per-'ſon and Affairs than he did, and that he would do his beſt to aſſiſt him 'in the buſineſs of the *Palatinate*: but he would then have him fol-'low his advice; That he had too long depended upon the *Spaniſh* 'Treaty, which was a fault, and had prejudiced us much; that nothing 'was to be expected from them but *Parols*. The Ambaſſador replied, 'if that were a fault, it behoved him to be wary in his Negotiation, 'not to make an Alliance that might be diſadvantagious to his Maſter, 'either in Honour or Judgment; That whatſoever ſhould be the 'event, he doubted not but that God would bleſs both his Counſels 'and Actions. His Majeſty of *Sweden* replied, that for the preſent he 'could not ſtipulate to make War with *Bavaria*, though he intended 'not to let him eſcape, for that it could not be but of great advantage 'if he could ſecure the *Catholicks*, which he was in a fair way to ef-'fect; for according to his Articles delivered unto *Charnaſſay*, the 'Electors of *Triers* and *Cologn* had accepted of the Neutrality. The 'Ambaſſador asked, whether his Majeſty had received any Act of their

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'own? he ſaid, No, But the Marqueſs of *Preſſay* had aſſured him there-
'of, that he had not yet heard of *Bavaria*, neither could he yet ſay
'any thing thereunto, until either *Charnaſſay* or *Horn*, whom he had
'ſent into *France*, were returned.

'His Majeſty of *Sweden* then ſaid, he would make him two Propoſi-
'tions, which were, He would either oblige himſelf to reſtore the
'*King of Bohemia* what the *Spaniard* held, and treat with *France* and
'*Bavaria* for the reſtitution of what he poſſeſſes; which if he would
'not reſtore, He would then undertake a War with him, ſo the King
'would enter into an Alliance with him againſt the *Spaniards*, if he
'ſhould attaque him in any of his Dominions. He anſwered, that
'was a point of ſo great Weight as he durſt not take upon him to
'make any preſent anſwer, but thought that his next from *England*
'would give ſome light.

The reſult of all was, that upon the King of *Bohemia's* arrival, it was reſolved that the Chancellor of the *Swedes* and himſelf ſhould enter into Treaty.

In this Audience he ſpake of 12000 Men to be allowed by the King of *Great Britain*, and 25000 *l.* a month, which he demanded for the maintenance of them, but he inſiſted not thereupon, and therefore he held not fit to mention it in this Diſcourſe, but by way of Memorial.

He inſiſted alſo upon the eſtabliſhing of the *Lutheran* Religion in the *Pallatinate*, and the King of *Bohemia's* Countries.

The Ambaſſador tranſmitted to Mr. Secretary *Cook* the paſſages at this Audience at *Franck-fort*, to be imparted to his Maſter the King of *Great Britain*.

Magdenburgh being quit by *Papenheim*, and Marqueſs *Hamilton* Commanded by the King of *Sweden* to remove thence, the King of *Swedland* put a ſtrong Garriſon into the ſame, under the command of the Lord *Faulconberg* of 4000 Men, and the Town raiſed 2000. Now ſeeing we are upon this great (but ſhortly after miſerable) Town, have a little patience to read what befel it by the cruelty of *Tilly*, in the begining of this year.

In the beginning of *April* 1631 *Engliſh* ſtile, Gen. *Tilly* now diſcovers himſelf to undertake what *Papenheim* had been about, *viz.* the Conqueſt of the Town and Archbiſhoprick of *Magdenburgh*. Firſt, take a word as to the ſituation thereof: The Country of *Magdenburgh* is ſituated upon the Weſt of *Brandenburgh*, from which the River *Elb* parts it; upon the South it touches upon *Saxony*, upon the Weſt joining with *Brunſwick* and *Halberſtadt*; and upon the North of it is the *Elb* again, with the two Dutchies of *Lunenburg* and *Lawenburgh*; the Country hath the name from the chief City *Magdenburgh*, which is one of the antient *Hans*-Towns of the Empire, and that honoured with an Archbiſhop's See, and he the Primate of all *Germany*.

The People be *Lutherans* of the *Auguſtan Confeſſion*, the Archbiſhoprick in the hands of a Lay-Man, *Chriſtian William*, a Prince of the Electoral Houſe of *Brandenburgh*, his Title is Adminiſtrator of the Biſhopricks of *Magdenburgh* and *Hall*, and Primate of *Germany*. This bred the Quarrel, becauſe he not giving way to Reformation of the Religion, (that is, the Adminiſtrator being againſt the bringing in of Popery again) and the reſtoring of the Church Lands to the Catholicks, where-

whereupon it being againſt Articles of Agreement, was preſcribed and bandied by the Emperor, and ſome Forces ſent into his Country, actually to ſeize upon the ſame. His Subjects, notwithſtanding they were alſo far out with the Emperor (as having conſented with other Hans-Towns, not to ſuffer any Imperial Souldiers to be quartered or billited upon them, and had raiſed ſome 2000 Souldiers for their own Guards) yet being now terrified by the Emperor, durſt not aſſiſt their Prince, until at laſt they were encouraged by the King of *Sweden*, who promiſed to ſtick cloſe by him: Whereupon, about the end of *July* 1630, the Adminiſtrator ſets forth his Declaration, proteſting againſt the wrong done him by the Emperor, and putting himſelf under the Protection of the King of *Sweden*. 7 *Caroli.*

With this Prince had *Francis Charles*, Duke of *Saxon-Lawenburgh*, now conjoined himſelf.

And about the end of *November* 1630, the King of *Sweden* ſends a Noble Gentleman, the Lord *Faulconbergh*, Lord *Marſhal* and Lord *Chamberlain* of his Majeſty's Houſhold, with 4000 Men to be put in Garriſon there, the Town having alſo raiſed 2000 Men for their Defence.

Upon the 12*th of April*, *Tilly* firſt preſents himſelf in full Battalia within a Mile of the City: at which time beleived it was that he would at leaſt have fallen upon the great Star-Sconce, or *Toll-Houſe* by the old *Flue*; but that day attempted he no more, than to beat ſome Guards out of their Redoubts into the City.

The 13*th* he lays his Seige; Himſelf, *Papenheim*, *Savelli*, and *Mansfeild*, round begirting the City. This done, twelve peices of Cannon are planted againſt the Bridge over the *Elb*; upon which he made 568 Shot that ſame day: his intent being to cut that paſſage off, that the Town by it might ſend no Succour to the foreſaid Sconce or *Toll-Houſe*, but the *General Faulkenbergh* conveniently planting ſome Pieces upon the *Toll-Houſe*, which at laſt diſmounted the Enemies Cannon. This not ſucceeding, *Tilly* falls Pel-Mell at once upon both theſe places, giving eight ſeveral Aſſaults unto them: but the Lord *Faulkenbergh* with four whole Cannon double charged with Stones, old Iron, &c. about 12 a Clock at night made them to give over: ſome Priſoners the next day which were taken, confeſs there were 2000 Men that day ſlain of the Aſſailants. This *Toll-Houſe* was a notable peice of Fortification, built on the other ſide of the *Elb*. To this *Tilly* now turns all his Battery; here falls he to mining, and all to no purpoſe.

On the 15*th* both by Land and Water he lays at it: but three hundred Musquetiers being by him ſent in Boats, to aſſail it on the Water ſide, were by thoſe of the Fort driven aſhore, and drowned, or ſlain by the Citizens; 200 alſo at the ſame time, loſt their lives on the Land ſide.

Now was news brought into *Tilly's* Camp of the King of *Sweden* being upon his March, for the relieving of the Beſieged. A Council of War thereupon being called, ſome Troops are ſent towards *Wittenbergh*, and the *Deſſanbridg*, there to ſtave off the Kings Forces; the news of his coming again ſlackning, *April* 21. to work *Tilly* falls again: and giving on upon the *Toll-Houſe*, that notable Piece is forſaken by the *Magdenburghers*, who at their Retreat offering to fire it, the place was Reſcued by the *Imperialiſts*. Upon this were all the Forts on that ſide of the *Elb*, either taken, or given over, the Bridge alſo by

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by *Tilly* burnt, and Approaches made unto the City, which was from thence immediately Battered. Now were the Beſieged forced to burn their own new Town, where 2000 *Imperaliſts* immediatly lodging themſelves, fell to mining, and ſhooting Granadoes into the City.

The *29th*, by a Sally out upon theſe in the new Town, are about a hundred ſlain; the Mines do no hurt, until one *Farniback*, a notable Engineer, takes them in hand, who ſapps himſelf under the Town-Ditches to the very hard Walls, which he much ſhakes by ſpringing the Mine: in reward of which Service and ſome others, the Emperor makes him a Colonel, granting him a Commiſſion to raiſe two new Regiments.

May the *2d*, the Imperialiſts in the new City having ſuddenly in the night time caſt up a Battery, ſhrewdly puniſh the Beſieged.

May 7th, General *Tilly* comes himſelf into the New-Town, together with *Papenheim*, then General of the Ordnance, and the Count of *Scomberg*, Serjeant Major General, and a great ſhew of Ladders is made, as if there were a purpoſe of a general *Scalado*. *Tilly*'s hope was, that the Town would preſently parly upon ſight of theſe Preparations; but they taking the Alarum at it, inſtantly man all their Bulwarks.

The *8th* day is ſpent in Shooting at a certain high Tower, from which the Town Cannon did much plague the Beſiegers. This day *Tilly* ſends a Trumpeter to Summon the Town; they ſend another to him, ſignifying their willingneſs to yeild, might but their Adminiſtrator ſtill enjoy his Biſhoprick, and the Town their Priviledges. This not conſented unto;

The *9th* day, *Papenheim* attempting to ſcale the Walls, is by a Sally beaten off: in which ſome of the Enemies Mines being diſcovered, are by Countermines in the Town defeated.

That day another Trumpeter is ſent into the Town; towards evening there was much buſtling obſerved, and carriages to and again in the Enemies Leaguer: Yea, they were perceived to riſe with their whole Army, (as the Town thought) and to March to *Orterſleben*, half a mile from them. All that night was the Lord *Faulkenberg* upon the Walls: who perceiving in the morning no danger of aſſault, calls the City together into the State-Houſe to give anſwer to the Enemies Trumpet; yea ſo ſecure they were, that the over-watcht Souldiers are ſuffered to go from their Courts of Guard, to take ſome ſleep: and the Townſmen were gone to Church to give God thanks for their deliverance from the Siege. Thus the Walls being found empty, about ſeven on the Tueſday morning, *May* the *10th*, *Papenheim* having given the Word *Jeſu Maria* to his Souldiers, and a white ſtring about their Arms; makes towards the *Heydecker*-Port; where having thrown Turffs and Faggots into the Ditch to fill it up to the middle, the Imperialiſts run with Scaling Ladders upon their backs, the Walls are in a trice mounted, the Town entred, and the Souldiers fall to killing. *Faulkenberg* now flying in upon them, beats them back to the very Walls again: but a Port being by this time opened, and the Enemies Horſe let in, the Valiant *Faulkenberg* is ſlain with a Shot, the *Adminiſtrator* hurt, both in the Thigh and Head, and ſo taken. Whilſt all thus goes to wrack, a mighty Fire breaks out (how none knows) and it being a great windy day, all was on the ſudden become one great Flame, the whole Town was within twelve hours ſpace utterly

terly turned to Aſhes, excepting 139 Houſes, ſix goodly Churches are burnt; the Cathedral, together with St. *Mary*'s Church and Cloiſter, were by the Monks and Soldiers diligence, preſerved. Twenty thouſand People at leaſt were here killed, burned, and ſmothered, whereof 6000 drowned in the *Elb*. *Tilly*'s Walloons would give quarter to few: and the *Crabatts* never uſe to give, or beg any.

May the 12*th* came *Tilly* into the Town; and finding ſome hundreds of Women and Children in the Church, he gives them their Lives, and ſome Bread to maintain them; next day he forbids pillaging.

Upon *Sunday*, May 15. becauſe he would have this fair Cathedral, now ſtained in Blood, made glorious, cauſes it to be cleanſed, and new conſecrated.

7 *Caroli.*

James Maleverer proceeded againſt in the *Exchequer*, concerning the Knighthood buſineſs.

WHereas it was commanded, to the Sheriff of the County of *York*, by Writ under the Seal of his Majeſty's Court of *Exchequer*, dated the 16*th* day of *May*, in the 7*th* Year of his Majeſty's Reign that now is, That he ſhould diſtrain *James Maleverer* Eſq; to appear before the Barons of his Majeſty's ſaid Court of *Exchequer*, in the *Octaves* of the *Holy Trinity* then next following, to make Fine to the King for his Treſpaſs and Contempt in not coming to the preſence of the King, before the *One and thirtieth* day of *January*, in the firſt Year of his ſaid Majeſty's Raign, to take upon him the Order of Knighthood, according to the form of a Proclamation in that behalf formerly made; at which day of the ſaid *Octaves* of the *Holy Trinity*, the ſaid *Maleverer* did appear, and pleaded to the ſaid Writs, That although his ſaid Majeſty the ſaid one and thirtieth day of *January*, and for three days next before the ſaid one and thirtieth day of *January*, was reſident and remaining at his Palace at *Whitehall* in the County of *Middleſex*; and that the ſaid *James Maleverer*, the ſaid one and thirtieth day of *January*, and three days next before the ſaid one and thirtieth day of *January*, was reſident and remaining at *Arncliff*, in the ſaid County of *York*, which is diſtant from the ſaid Palace of *Whitehall*, the ſpace of one hundred and fourſcore miles: and that the ſaid *James Maleverer*, the ſaid one and thirtieth day of *January* aforeſaid, or at any time before, had no Lands or Rents in his own hands, or in the hands of Feoffees to his uſe, out of the ſaid County of *York*; and that that part of the ſaid County of *York* which is neareſt to the ſaid Palace of *Whitehall*, is diſtant from the ſaid Palace of *Whitehall* the ſpace of one hundred and thirty miles; and that no Proclamation, by virtue of any Writ of Proclamation, for the appearance of any Perſons whatſoever, to take the ſaid Order of Knighthood, was made in any part of the ſaid County of *York*, before the thirtieth day of *January*, in the ſaid firſt Year of his Majeſty's Raign; by reaſon whereof the ſaid *James Maleverer* could not perſonally come to the preſence of his ſaid Majeſty, to take the ſaid Order of Knighthood before the ſaid one and thirtieth day of *January*, in the ſaid firſt year of his Majeſty's ſaid Raign; yet the ſaid *James Maleverer* for his Fine in the Premiſes, did humbly ſubmit himſelf to the ſaid Court, and demanded to be diſcharged of the ſaid Iſſues returned and impoſed upon him by reaſon of the Premiſes. Yet notwithſtanding the ſaid Plea and Submiſſion of the ſaid *James Maleverer*; and after the ſame was made as aforeſaid, and entred upon Record in his Majeſty's ſaid Court of *Exchequer*; and the ſaid Court moved for

ſtay

An. 1631. ſtay of the ſaid Proceſs, and diſcharge of the Iſſues. Sir *H. D.* being then Lord Chief Baron of the ſaid Court of *Exchequer*, contrary to his Oath, and contrary to the Laws of this Realm, and to the great impoveriſhing of the ſaid *James Maleverer*, did (together with the reſt of the then Barons of the ſaid Court) refuſe to impoſe any Fine whatſoever upon the ſaid *James Maleverer*, and told him, That the ſaid Court had no power to fine him, and that he muſt compound with certain Commiſſioners for that purpoſe appointed. And did further order and direct ſeveral other Writs of *Diſtringas*, to iſſue forth out of his ſaid Majeſty's Court of *Exchequer*, under the Seal of the ſaid Court, directed to the ſeveral high Sheriffs of the ſaid County of *York*, whereby the ſaid Sheriffs were commanded further to diſtrain the ſaid *James Maleverer* to appear, as aforeſaid; upon which ſaid Writs of *Diſtringas*, ſeveral great and exceſſive Iſſues were returned upon the Lands of the ſaid *James Maleverer*, amounting to the ſum of two thouſand pounds, or thereabouts; a great part whereof the ſaid *James Maleverer* was inforced to pay; and in like manner the ſaid Sir *H. D.* (together with the reſt of the then Barons of the ſaid Court of *Excqeuuer*) did order and direct ſuch and the like unjuſt and undue Proceedings; and the ſaid Proceedings were had and made accordingly againſt *Thomas Moyſer* Eſq; and againſt ſeveral other Perſons his Majeſty's Subjects in ſeveral parts of this Realm, to the utter undoing of many of them.

Jan. 20. Sope-makers incorporated. In order to increaſe the Crown-Revenue by the way of Grants, by Letters Patents under the Great Seal of *England*, the King creates a New Corporation within the City of *Weſtminſter*, by the Name of the *Society of Sope-makers*, made to theſe Perſons following; Sir *Henry Compton* Knight of the *Bath*, *Henry Gilford*, *Nicholas Forteſcue*, *Baſil Brook*, *Edward Stradling*, *Richard Weſton*, *William Ford*, Sir *James Banks*, Knight; *George Gage*, *Francis Townly*, *Beverly Bretton*, *Thomas Jones*, and *Thomas Ruſſel*, Eſquires, and their Succeſſors; and to remain as a Society or Body Corporate, by the Name of the Governor, Aſſiſtants, and Society of Sope-makers, and that they ſhall have the ſame to them and their Succeſſors.

Giving them and their Succeſſors power to erect and admit Perſons into their Society, and to purchaſe Lands and Hereditaments to them and their Succeſſors, in Fee and Perpetuity, for Life or Years, and diſpoſe of the ſame as they ſhall pleaſe.

And the King by the ſaid Patent doth nominate and appoint Sir *Richard Weſton* Knight, to be the firſt Governor of the ſaid Society; and the ſaid Sir *Henry Compton* and others to be the Aſſiſtants.

And all Sope-boilers who will not come into their Corporation, are to be prohibited the Trade of Sope-boilers. And a good Revenue yearly was brought into the King's *Exchequer*, as is hereafter mentioned, *viz.* 10000 *l.* by way of Advance; and 8 *l. per* Tun paid alſo into the Exchequer.

Titles

Titles of PROCLAMATIONS, *&c.*

Pro Anno 1631.

A Proclamation for the better directing of thoſe who deſire to repair to the Court for the Cure of the Diſeaſe called the *King's Evil.* — *Whitehall*, March 25.

A further Proclamation prohibiting the Exportation of Corn and Grain. — *Whitehall*, March 25.

A Proclamation for the better ordering of *Fiſhing* upon the Coaſts of his Majeſty's Dominions. — *Greenwich*, May 24.

A Proclamation for preventing of Deceit uſed in the Importation of *Madder.* — *Greenwich*, June 15.

A Proclamation for the new Making, Altering, Amending, Dreſſing, Repairing, Proving, and Stamping of Armour, Guns, Pikes, and Bandaliers, both of the Common Arms, and Arms of the Trained-Bands throughout *England* and *Wales.* — *Greenwich*, June 30.

A Proclamation againſt ſuch as willfully and preſumptuouſly contemn his Majeſty's Royal Authority uſed in prevention of the barbarous uſe of *Duels*, particularly againſt *Peter Apſley* Eſquire. — *Oatlands*, Aug. 9.

A Proclamation for revoking the Commiſſion concerning *Archery.* — *Woodſtock*, Aug. 23.

A Proclamation for the better Direction of thoſe who deſire to Repair to the Court for the Cure of the Diſeaſe called the *King's Evil.* — *Hampton-Court*, Octo. 13

A Proclamation inhibiting the reſort of his Majeſty's People to the Court for cure of the *King's Evil* until the middle of *Lent*, and to reſtrain the acceſs of others from Infected Places. — *Whitehall*, Novemb. 8.

A Proclamation concerning the Trade of *Guiny* and *Binny* in the parts of *Africa.* — St. *James's* Novemb. 22.

A Proclamation commanding the due execution of the Laws made againſt Eating and Selling of *Fleſh in Lent*, and other Times prohibited. — *Whitehall*, Jan. 27.

A Proclamation for the better encouragement and advancement of the Trade of the *Eaſt-India* Company, and for prevention of the exceſs of *private Trade.* — *Whitehall*, Feb. 19.

An. 1631.

Whitehall, Feb. 20. A Proclamation for enabling all his Majesty's Subjects to trade within his several Dominions, without being further charged with Customs, or other Duties, than they of that Kingdom wherein they trade ought to pay.

Newmarket, March 16. A Proclamation for the well-ordering of the Silk Trade throughout *England*, &c.

Historical

R. White sculp.
William Laud
of Canterbury
Privy Councilor to
Lord Arch Bishop
his Grace
King Charles ye 1st

8 *Caroli.*

Hiſtorical Collections

For the Year 1632.

WE begin this Year in a new method, which we purpoſe to obſerve for the following Years, being a brief Account or *Diary* of ſome remarkable Paſſages in order of Time for the whole Year of 1632, by commencing the Year with a Copy of the Arch-Biſhop of *Canterbury's Diary*, written with his own hand; which we (being preſent) ſaw produced at the Lords Bar at the time of his Trial; wherein are many things contained, which will ſave us the labour to mention in the Body of *Hiſtorical Collections*, and will gain greater Belief with the Reader (being his own words) than if they had bin never ſo truly related by any Author upon Credit: And if there be Matters of leſs moment contained in the *Diary*, which are not ſo clear for Hiſtory, yet are they ſubject Matter for Obſervation; and the Reader may ruminate in his Thoughts what the meaning ſhould be of ſome dark Expreſſions, which we do not undertake to explain, neither are we ſo uncharitable to make publick in print the ſaid *Diary*, as ſome * have done, ſeeming thereby to reflect on ſome Paſſages which had bin better omitted than publiſhed, but we paſs them over.

* *W. P.*

The Biſhop of London's *Diary for the Year* 1632.

I Preached at Court, *Saturday*, *May* 26.

Trinity-Sunday-Eve, I conſecrated the Lord Treaſurer's Chappel at *Roehampton*.

May 29, *Tueſday*, my meeting and ſetling upon expreſs terms with *K. B.* in the Gallery at *Greenwich*, in which buſineſs God bleſs me.

June 15. Mr. *Francis Windebank*, my old Friend, was ſworn Secretary of State; which place I obtained for him of my Gracious Maſter King *Charles*.

June 10. *Monday*, I married my Lord Treaſurer *Weſton's* Eldeſt Son, to the Lady *Frances*, daughter to the Duke of *Lenox*, at *Roehampton*.

June 25. *D. S.* with me at *Fulham*, *Cum Ma.* &c.

July 10. Dr. *Juxon*, the Dean of *Worceſter*, at my ſuit, ſworn Clerk of his Majeſty's Cloſet; that I might have one that I might truſt near his Majeſty, if I grew weak or infirm, as I muſt have a time.

July 17. I conſecrated the Church at *Stanmore Magna* in *Middleſex*, built by Sir *John Wolſtenham*.

December 2. *Sunday*, The Small Pox appeared upon his Majeſty, but God be thanked, he had a very gentle Diſeaſe of it.

Decemb. 27. *Thurſday*, The Earl of *Arundel* ſet forwards towards the *Low Countries*, to fetch the Queen of *Bohemia* and her Children.

Decemb. 25, I preached to the King, *Chriſtmaſs*-day.

An. 1632.

Jan. 1. My being with *K. B.* this day in the afternoon, troubled me much, God give me a good iſſue out of it.

Jan. 15. *K. B.* and I unexpectedly came to ſome clearer Declarations of our ſelves, which God bleſs, *&c.*

Feb. 11. Monday night till Tueſday morning the great Fire upon *London-Bridg*, many Houſes burnt down.

Wedneſday *Feb.* 13. The Feoffees, that pretended to buy in Impropriations, were diſſolved in the Chequer-Chamber. They were the main Inſtruments for the *Puritan Faction*, to undo the Church; The Criminal part reſerved.

Feb. 28. Thurſday, Maſter Chancellor of *London*, Dr. *Duke* brought me word, how miſerably I was ſlandered by ſome Separatiſts; I pray God give me Patience, and forgive them.

March 6. Aſh-wedneſday, I preached at *Whitehal.*

THere were at this time ſome who were averſe to the way of the times, and did not forbear to ſpeak againſt new Doctrines and Ceremonies: as appears by the following Proceedings in the High Commiſſion.

May 6. Mr. *Barnard* queſtioned in the High Commiſſion Court, and cenſured, the Archbiſh. being preſent.

Mr. *Nathaniel Barnard*, Lecturer of St. *Sepulchers London*, in his Sermon preached at St. *Maries* in *Cambridge*, delivered ſmart paſſages againſt poſſibility of Salvation in the Faith and Worſhip of the Church of *Rome*, as it was Decreed in the Council of *Trent*; and againſt the Introducing of *Pelagian* Errors, and *Romiſh* Superſtitions into our Church; for which he was articled againſt in the *High-Commiſſion-Court.* His Text was, 1 Sam. 4. 21. *The Glory is departed from Iſrael (becauſe the Ark of God was taken away.)* For which he was cenſured, and ordered to make this Recantation.

The Recantation ordered for Mr. Barnard, *(which he refuſed to make) was as followeth.*

'WHereas by a Sermon, made by me in this place the *6th* of '*May* laſt, upon this Text, 1 *Sam.* 4. 21. [*The Glory is departed* 'from *Iſrael, becauſe the Ark of God was taken*] I had this Paſſage; '[*And the Apoſtle*, Rom. 1. 16. *affirmeth of the preacking of the Goſpel*; 'that it is [*the Power of God unto Salvation*] id eſt, *It is that Mean* 'by which God manifeſteth his Omnipotent and Irreſiſtible Power, *in the* 'Converſion and Salvation of all thoſe, who from Eternity were ordained 'hereto by God's abſolute and immutable Decree.]

For which Paſſage he was enjoyned to make this Recantation following:

'And I do here publickly acknowledg, that hereby (contrary to his 'Majeſty's Command in his Declaration lately publiſhed, and printed 'with the Articles of Religion) I did go beyond the general meaning 'of that place of Scripture, and of the ſaid Articles, and drew the ſame 'to maintain the one ſide of ſome of theſe ill-raiſed differences which 'his Majeſty's ſaid Declaration mentioneth: And this I did rather out 'of a deſire to thruſt in ſomewhat into my ſaid Sermon, in affirmation 'of one ſide of the ſaid Differences, than any ways occaſioned by the 'Text I then preached of.

'For which I here publickly profeſs my hearty Sorrow, and do humbly

8 *Caroli*

'humbly crave pardon of God Almighty, of his Majeſty, and of this 'Congregation.

'And whereas in the ſame Sermon I had this Paſſage,

'[*If God's Ordinances for his publick Worſhip in their purity are the Glo-*
'*ry of a Nation; then it follows that they who go about to deprive a Nation*
'*of any of God's Ordinances for his publick Worſhip either in whole, or in*
'*the leaſt part of them,* (id eſt) *in their purity and integrity, they go about*
'*to make that Nation baſe and inglorious; and if ſo, then are they enemies*
'*to that Nation, and Traitors to it, if it be their own Nation: for Treaſon*
'*is not limited to the Royal Blood; as if he only could be a Traitor who plot-*
'*teth and attempteth the diſhonour, or ſhedding thereof, but may be, and is*
'*too oft committed againſt the whole Church and Nation: which laſt is ſo*
'*much the worſe of them two, by how much the End is better than the Means,*
'*and the Whole of greater conſequence than any one Part alone. Whereby*
'*one may learn what to account of thoſe among our ſelves (if any ſuch be)*
'*which is better known to you than to me, who endeavour to quench the*
'*Light, and abate the Glory of our* Iſrael, *by bringing in their* Pelagian *Er-*
'*rors into the Doctrine of our Church eſtabliſht by Law, and the Superſti-*
'*ons of the Church of* Rome *into our Worſhip of God, as high Altars, Cru-*
'*cifixes, and bowing to them* (id eſt) *(in plain Engliſh) worſhipping them;*
'*whereby they ſymbolize with the Church of* Rome *very ſhamefully, to the ir-*
'*reparable ſhipwrack of many Souls who ſplit upon this Rock.*]

'I do now upon better information find, that many erronious and 'dangerous Aſſertions, and Conſequences unfitting to be here expreſt, 'may be collected and inferred out of the ſaid words; and I do there- 'fore hereby publickly recant all the ſaid Words, as they are, by way 'of uſe or inference and application, uſed by me, to be very raſhly and 'inconſiderately uttered, and to be very undutiful towards his Majeſty. 'I do humbly refer and ſubmit my ſelf to his Majeſty's Clemency and 'gratious Acceptance for the interpretation of my meaning of the ſame; 'and I am heartily ſorry, and do humbly crave pardon, that words 'and applications ſo dangerous and ſcandalous to the preſent ſtate of 'the Church of *England* proceeded from me.

'Thirdly, Whereas in the ſame Sermon I had this paſſage;

'[*By* God's Ordinances *here I underſtand chiefly the word Sacraments*
'*and Prayer, in that purity and integrity, wherein the Lord Chriſt left*
'*them, not blended and adulterated with any ſuperſtitious Inventions of*
'*Man, for then they ceaſe to be God's Ordinances, and he owns them no*
'*longer.*]

'I deſire this paſſage may be taken and underſtood as I ſpake and 'meant it, and not otherwiſe; that is, not that I hold all humane In- 'ventions added to God's Ordinances to be ſuperſtitious; for I account 'that Tenent not only falſe but palbably abſurd and fooliſh. But to ex- 'clude all thoſe humane Inventions which may hinder the preſervati- 'on of the Doctrine and Diſcipline of this Church of *England* in that 'purity and integrity, wherein through God's Gracious Goodneſs by 'his Majeſty's Laws Eccleſiaſtical we do enjoy them.

'Fourthly and laſtly; Whereas by ſome other Paſſages in my ſaid 'Sermon was (as I underſtand) conceived by ſome not only to caſt 'Aſperſions upon the preſent ſtate of our Church, and ſome principal 'Members and parts thereof, thereby to bring it and them into ſcandal 'and diſlike; but even under ſome ambiguous words, as if it were to 'move to take up Arms for Redreſs, although with recalling or re-

'ſtraining

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'straining the ſame in terms afterwards, and ſaying thus;
'[*Let us pray theſe Men either to Converſion (if it be God's bleſſed 'Will) or to their Deſtruction*, Fiat Juſtitia pereant illi, *and calling 'them crafty Achitophels*, &c.]
'I do here acknowledg and profeſs I had no ſuch intentions, neither 'do I know any cauſe why my ſelf, or any other, ſhould ſo bitterly 'inveigh againſt any in our Church. I am therefore heartily ſorry 'that I gave cauſe to any of the Hearers to conceive ſo: And I humbly 'crave pardon for it.

Mr. *Bernard* refuſed this Recantation, yet in general terms profeſſed his ſorrow for any Overſights, and unbeſeeming Expreſſions in his Sermon. He was fined in the *High Commiſſion Court* a thouſand pound, and ſuſpended his Miniſtry; Condemned in coſts of Sute, and committed to Priſon, *&c.*

The Trial of *Rea* and *Ramſey* in the Court of Honour before the Lord High Conſtable and Lord Marſhal.

On the 8*th* of *May* this Year, a period was put to the great Trial in the Court of Honour before the *Lord High Conſtable*, and *Lord Marſhal*, between *Rea* and *Ramſey*, concerning the formentioned Accuſation of High Treaſon againſt Marqueſs *Hamilton*, which begun to have a Hearing in *November* the laſt Year, and was now decreed by that Court in this Year to be determined by Combat: which in regard it is a Trial Remarkable after the Proceeding of the Civil Law, we have given the Reader an account thereof at large, however take his Majeſty's thoughts of it, as it is expreſſed in this Letter to the Marqueſs.

The King writeth to Marq. *Hamilton* of the proceeding in the Trial between *Rea* and *Ramſey*.

James,

SInce you went I have not written to you of Mackay's *buſineſs, becauſe I neither deſire to propheſie nor write half News; but now ſeeing (by the Grace of* God*) what ſhall be the end of it, I have thought fit to be the firſt Advertiſer of it to you. I doubt not but you have heard, that (after long ſeeing of Proofs for clearing the buſineſs as much as could be, and Formalities which could not be eſchewed) the Combat was awarded, Day ſet, Weapons appointed: But having ſeen and conſidered of all that can be ſaid on either Side, as likewiſe the carriage of both the Men, upon mature deliberation I have reſolved not to ſuffer them to fight. Becauſe, firſt, for* Mackay *he hath failed ſo much in his Circumſtantial Probations, eſpecially concerning* Muſchamp, *upon whom he built as a chief Witneſs; that no body now is any way ſatisfied with his Accuſations. Then for* David Ramſey, *though We cannot condemn him for that which is not, yet he hath ſo much, and ſo often offended by his violent Tongue, that We can no ways think him innocent, though not that way guilty whereof he is accuſed; wherefore I have commanded the* Court ſhall be diſmiſſed, *and* Combat diſcharged, *with a Declaration to this purpoſe, That though upon want of good Proof the Combat was neceſſarily awarded, yet upon the whole matter I am fully ſatisfied that there was no ſuch Treaſon as* Mackay *had fancied. And for* David Ramſey, *though We muſt clear him of that Treaſon in particular, yet not ſo far in the* General, *but that he might give occaſion enough* by his Tongue *of great Accuſation, if it had been rightly placed, as by his fooliſh preſumptuous Carriage did appear.*

Combat diſcharged.

This is the ſubſtance, and ſo ſhort, that it is rather a Direction how to believe others, than a Narrative it ſelf; one of my chief ends being that you may ſo know David Ramſey, *that you may not have to do with ſuch a* Peſt *as he is, ſuſpecting he may ſeek to inſinuate himſelf to you upon this Occaſion:*

where-

8 *Caroli.*

Wherefore I muſt deſire you, as you love me, to have nothing to do with him.

To conclude now; I dare ſay that you ſhall have no diſhonour in this Buſineſs; and for my ſelf, I am not aſhamed that herein I have ſhewed my ſelf to be,

London, *May* 8. 1632.

Your Faithful Friend, and Loving Couſin,

CHARLES *R.*

Four Biſhops advanced.

By the Interceſſion of the Biſhop of *London*, this Year, *Walter Curl* was Tranſlated from the Biſhoprick of *Bath* and *Wells* to *Winchester.*

Robert Wright from the Biſhoprick of *Briſtol* to that of *Coventry* and *Lichfield.*

Auguſtine Lindſey was made Biſhop of *Peterborough.*

And Dr. *Pierce* Biſhop of *Bath* and *Wells.*

Concerning the well makeing of Sope.

'HIs Majeſty intending the advancement of the Native Commodi-
'ties of this Realm, and the prevention of divers Deceits com-
'monly uſed in the making of Sope, with Forreign and unſweet Ma-
'terials; and of the exceſſive Rates in the ſale of ill Sope, at the
'pleaſure of the Sope-boilers, being no Body Politick, nor govern'd
'by any good Order: And reſolving to make the Manufacture of
'Sope and Pot-aſhes a Work of his own People, did, by Letters Pa-
'tents dated the 20*th* of *January* laſt paſt, incorporate divers Perſons,
'by the Names of *Governors*, *Aſſiſtants*, and *Fellows* of the Society
'of *Soapers* within *Weſtminſter* and *Middleſex*; and that it ſhould
'be lawful for them, and their Succeſſors, to exerciſe the ſaid Art and
'Myſtery; and that they ſhould chuſe skilful Perſons out of the ſaid
'Society, to overſee all Works, Workmen, *&c.* uſing the ſaid Art
'and Myſtery, and to prevent fraud and deceit therein. And that
'none of the ſaid Sope ſhall be put to ſale, before the Overſeers
'ſhall have overſeen the ſame, and have marked it for good; and to
'puniſh the Gainſayers and Rebellers of his Majeſty's Proclamation.

'And the Governors, Aſſiſtants, and Fellows of the ſaid Society,
'did by Indenture, ſealed with their Common Seal, made between his
'Majeſty of the one Part, and them of the other part, covenant, to
'erect and maintain ſuch Workhouſes as might make 5000 Tun of
'good Sope, and a further proportion if need ſhould require.

'And his Majeſty, by his Letters Patents, did erect an Office for
'keeping of Patterns, and making the Eſſay of Sope to be made by
'the Governors, Aſſiſtants, and Fellows of the Society of Sopers of
'*Weſtminſter*; and appointed *F. C.* to be the firſt Eſſay-maſter, and to
'take an Oath for the true execution of his Office.

'His Majeſty therefore did charge and command the ſaid Society,
'That they uſe no other Oil in making of their Sope, but Olive-Oil,
'and Rape-Oil, by which means the Sope may be ſweet, good, and
'ſerviceable; and that none do put to ſale any Sope, Pot-aſhes, *&c.*
'before they be Eſſayed, and tried to be found good and ſerviceable,
'and ſo marked by the Deputies of the ſaid Society.

The

An. 1632.

June 20. The King commands the Gentry to keep their reſidence at their Manſions in the Country; and forbids them to make their habitations in *London*, and Places adjoyning.

The King being informed, that of late Years a great number of the Nobility, Gentry, and Abler ſort of his Subjects, with their Families, reſorted to the Cities of *London* and *Weſtminſter*, and Places adjoining, and there made their Reſidence, more than in former Times, contrary to the Ancient Uſage of the *Engliſh* Nation, which had occaſioned divers Inconveniencies: for whilſt their Reſidence was in the Country, they ſerved the King according to their Degrees and Ranks, in aid of the Government, whereby, and by their Houſe-keeping in thoſe parts, the Realm was defended, and the meaner ſort of People were guided, directed, and reliev'd; but by their reſidence in the ſaid Cities of *London*, *Weſtminſter*, and parts adjoining, they had not Emploiment, but lived without doing any Service to Prince or People: A great part of their Mony drawn out of their ſeveral reſpective Counties, and ſpent in the City, in exceſs of Apparel, provided from Forreign Nations, to the enriching of other Nations, and conſumed their time in other vain Delights and Expence, even to the waſting of their Eſtates.

'His Majeſty therefore touched with a deep ſence of thoſe Inconveniencies, doth ſtraightly charge and command, that before the end 'of forty days, his Lords Spiritual and Temporal, Lieutenants, Deputy Lieutenants of Counties, Juſtices of Peace, Baronets, Knights, 'Eſquires, Gentlemen, and all Clerks having Benefices with Cure, 'Prebendaries, or Dignities in Cathedral or Collegiat Churches, that 'have Manſion-houſes, and Places of Reſidence in other Parts; that 'they do reſort to the ſeveral Counties where they uſually reſided, and 'there keep their Habitations and Hoſpitality, *&c.* except ſuch as are 'of his Majeſty's moſt Honourable Privy-Council, or bound to daily 'attendance on the King, Queen, or their Children.

'Further declaring, That it was his firm reſolution to withſtand 'this great and growing Evil, by a conſtant ſeverity towards the Of'fenders; and therefore gave this timely warning, that none hereafter 'might preſume to tranſgreſs.

July 16. Againſt Building on New Foundations in *London*.

The King at this time took into his Princely Conſideration, the ſtate of his City of *London*, being his Royal Chamber, and Imperial Seat of his Kingdom, renowned over all parts of Chriſtendom.

'And foreſeeing that the Honour, Government, Health and Safety 'of the City, is of great conſequence unto his Majeſty, and the whole 'Kingdom: And that his Royal Progenitors, in former Times, eſpe'cially his Royal Father, of bleſſed Memory, King *James*, and the 'moſt excellent Princeſs Queen *Elizabeth*, in their Times had carefully 'provided for the ſame, ſtraightly prohibiting the erecting of Houſes 'and Buildings upon new Foundations, and the entertaining of In'mates in and about this City, which would multiply the Inhabitants 'to ſuch an exceſſive number, that they could neither be govern'd nor 'fed; and for putting theſe his Majeſty's Commands in due execu'tion, he did make, and ſeveral times renew Commiſſions, directed to 'the Lord Mayor of the ſaid City, and divers other Perſons of Ho'nour and Worth, grounding the ſame upon the Rules of Law and 'Juſtice, as againſt publick and common Nuiſances, as well as upon 'Reaſons of State and Government, all tending to the publick Good

'of

'of the People; but that taking not ſo full effect hitherto, as the King 'expected, his Majeſty hath now again reſolved to renew that his 'Commiſſion to divers Honourable Perſons, and others of Worth and 'Underſtanding, requiring them forthwith in their own Perſons, as 'by other good ways and means, to inquire and find out the Offenders, 'and Offences againſt this his Majeſty's Declaration, and to make Certi-'ficate thereof to the Council-Board, or in the Court of Star-Cham-'ber, to the end that ſuch Proceedings may be had againſt them, as 'may ſtand with the King's Honour, and the Laws of the Land. See more of this at large in the *Appendix*, which contains alſo his Majeſty's particular Rules for the putting this Commiſſion in execution, which are very large. 8 *Caroli.*

Concerning the Poſtmaſter of *England* for Foreign Parts.

Whereas the King's Royal Father, King *James*, did conſtitute an Office, called, *The Office of the Poſtmaſter of* England *for Foreign Parts*, who ſhould have the ſole taking up, ſending, and conveying of all Pacquets and Letters into thoſe Parts, with power to take moderate Salaries; and did appoint and conſtitute firſt *Matthew de Queſter* to execute that Imploiment; afterwards *William Frizel* and *Thomas Withering*, and their Deputies, to do all things appertaining to the ſame.

The Merchants of the *Engliſh* Nation, praying his then Majeſty to continue them in that Office, his moſt Excellent Majeſty that now is, affecting the welfare of his People, and conſidering how much it imports his State and this Realm, that the Secrets thereof be not diſcloſed to Foreign Nations, by a promiſcuous uſe of tranſmitting, or taking up of Foreign Letters, was pleaſed on the *19th* of *July*, to appropriate the ſaid Office to *Frizel* and *Withering* aforeſaid, with prohibition to all others to intermeddle therewith.

The City of *London* about the Death of Dr. *Lamb* is fined.

Doctor *Lamb*, commonly ſo called, was now living, though neither Doctor nor any way Lettered, but a Man odious to the Vulgar for ſome Rumors that went of him, as a Conjurer, or Sorcerer. He was quarrel'd withal in the Street in *London*; and as the common People more and more gathered about him, ſo they pelted him with rotten Eggs, Stones, and other Riffraff; juſtled him, beat him, bruiſed him, and ſo continued purſuing of him from Street to Street, till there were five hundred People in a plump following him: This continued three hours at leaſt, until Night, and not a Magiſtrate or Officer of Peace, once ſhewed himſelf to ſtop the Tumult; and ſo the poor old Man, being above eighty Years of Age, died of this violence, and no Inquiſition was taken of it, nor any Malefactor ever diſcovered. For which Negligence, an Information was put in the *King's Bench*, by Mr. Attorny *Noy*, againſt the Mayor and Citizens; and they ſubmitted to the Grace of the Court, and were fined by the ſaid Court 1500 Marks by the Common Law, and not upon the Statute of 28. *Ed.* 3. nor upon the Statute of 4. *H.* 4. ſee the Statutes.

The Information.

The Information brought againſt the Mayor and Commonalty of *London*, was to this effect.

Term *Paſch.* 8. *Car.* Dr. *Lamb.*

'WHereas they were incorporated by that Name, and it was a 'Walled City, and recites the Statute of 2. *E.* 4. That the 'Mayor for the time, and all who have been Mayors, ſhould be Juſtices

An. 1632. 'of the Peace within the City; and that the Sheriffs are made among 'themſelves, and Coroners appointed by themſelves, and that by Law 'they ought to ſuppreſs Riots, and unlawful Aſſemblies. Notwith- 'ſtanding in *Jun.4.Car.* in the day time, That one *John Lamb*, aliàs dict. 'Doctor Lamb, was ſlain in a Tumult, and none of the Offenders ta- 'ken, nor any Perſon known or indicted for that Felony. And up- 'on this Information, the Mayor and Commonalty appeared, and 'confeſſed the Offence, *& poſuerunt ſe in gratiam Curiæ, &c.* for 'which they were amerced to 1500 Marks; for it was conceived to be 'an Offence at the Common Law, to ſuffer ſuch a Crime to be com- 'mitted in a walled Town, *tempore diurno*, and none of the Offenders 'to be known or indicted; *vide* 3. *E.* 3. *Corone* 299. 22. *E.* 3. *Coron.* 238. 8. *E.* 2. *Coron.* 425. *Stamf. fo.* 33. *Cok. lib.* 7. *fo.* 7. 3. *H.* 7. 15. *Dyer.* 210. And *Noy*, Attorney General, ſhewed a Record, *Mich.* '18. *E.* 3. *Rot.* 132. an Indictment of a Town in *Devonſhire*, for 'ſuffering an Aſſembly, as it were, to hold Aſſizes in mockery of Ju- 'ſtice. And 21. *H.* 6. a Preſentment before *Forteſcue*, againſt the 'Town of *Norwich*; That there was a great Riot in *Norwich*, and 'one *Gladman* took upon him to be King, and went with a Crown of 'Paper, in a riotous manner, to the Priory of *Norwich*, *&c.* And al- 'though it appears not upon the Roll, *quid inde venit*, yet *per Rot.* 'Patent. 27. *H.* 6. *Memb.* 13. their Liberties for that Cauſe were 'ſeized, and regranted.

Auguſt 1. Concerning the Earl of *Strafford* his Trial, as to an Article, charging him with words ſpoke at *York* Aſſizes.

Thomas Lord Vicount *Wentworth*, Lord Preſident of the Council in the North, in *Auguſt* this Year, at the Publick Aſſizes held at the Caſtle in the County of *York*, let fall ſome words, which the Gentlemen of the Country then preſent, took great exception at; and afterwards the ſame were laid to his Charge by the Parliament as a Crime.

Here followeth the words, and the Lord Vicount *Wentworth's* Anſwer in his Defence; for it were unjuſt to ſet down the Crime, and not the Defence of the Accuſed, although it be a Digreſſion in point of Time.

To prove the words the firſt Witneſs that was produced did teſtify;

Auguſt. That when Sir *Thomas Leyton* was Sheriff of *Yorkſhire*, in the Year 1632, he heard the Earl of *Strafford* ſay theſe words, *That ſome nothing would content but Law; but they ſhould know, the King's little Finger ſhould be heavier than the Loins of the Law:* and that this was ſpoken in the place where the Judges ſat in *York* Caſtle, at the Aſſizes that Year.

And the High Sheriff himſelf being produced, teſtified, that his Lordſhip ſaid, *Some would not be ſatisfied but by Law, but they ſhould have Law enough, for they ſhould find the King's little Finger ſhould be heavier than the Loins of the Law*; and that his Lordſhip was upon the Bench when he ſpake thoſe words.

The Teſtimony of theſe two Perſons, was confirmed in ſubſtance by another Witneſs, whoſe Examination was read, himſelf being dead; they all agreed the time when theſe words were ſpoken, to be in the Year 1632, or 1633.

DEFENCE.

8 *Caroli.*

DEFENCE.

The Defendent knows not whether it be material for him to anſwer this or no, becauſe the words are charged upon him to be ſpoken in *Auguſt*, after the 21 of *March*, 8. *Car.* which appears to be when he was in *Ireland*; but he will not ſtand upon ſuch niceties, (there might be a miſtake in point of time) he deſires the Truth may appear. The words ſaid by him, were quite contrary to the Charge: he ſaid, *The little Finger of the Law was heavier than the King's Loins.* The occaſion of which words was this, There came divers Levies in the Year when Sir *Thomas Layton* was High Sheriff, for divers great Sums of Mony for Iſſues in the Knighthood Buſineſs, on ſome that had compounded, and paid their Mony to him the Defendent, who was the Receiver of that Mony, which he paid into the *Exchequer*; yet theſe Iſſues came out of the *Exchequer* by ſome Error above, and were levied with very great rigor by Sir *Thomas Layton.* When the Defendent came down, he ſhewed Sir *Thomas Layton* how the Men were injured by ſuch Proceſs, and deſired him to return their Mony to them again, and he would ſee him diſcharged. And then to give ſatisfaction to the Country, he told them, That the Commiſſion for *Knighthood-Mony*, was a Commiſſion of Grace and Favour; and that their compounding with the King was an eaſe to them, and much greater eaſe than by a proceeding at Law would have fallen on them, the very Iſſues being three or four times more than they had compounded the whole for. And thereupon I applyed that Speech, *The little Finger of the Law is heavier than the Loins of the King*; and if he ſhould have fallen to threaten, he had ſpoken contrary to the end purpoſed by him, which was to incline them; and none of the Witneſſes againſt him ſpake any thing to the occaſion of that Speech. It is long ſince theſe words were ſpoken, and they were never yet complained of, and he muſt have a ſtrong Memory, that will ſwear poſitively to the very words ſpoken ſeven or eight years ago; and ought to have better ears than one of the Witneſſes produced, who appears to have ſuch an infirmity in his hearing, that he muſt be whooped to at the Bar before he can hear; and ſure his Sence of Hearing is much amended, elſe he could not hear my Lord of *Strafford* at that diſtance, to the place where he ſat as *High-Sheriff* in open Court. Then he produced two Witneſſes, the one teſtified that he heard a Gentleman of the County ſay, who was preſent at that Aſſizes, that my Lord ſpake the words in manner and occaſion, as related by his Lordſhip; and another Witneſs (now a Member of Parliament) who was preſent at that time upon the Bench teſtified the ſame.

REPLY.

Though as to point of Time the Month was miſtaken in the Article, yet that is not at all material, the Offence is, That his Lordſhip ſpake the words, and that he was on the Bench when he ſpake them.

As to his Lordſhip's exception to the Witneſs, which he ſaid had need have better Ears; it was replyed, he had not bin deaf above two Months; and that two other Witneſſes concurred fully in the

An. 1632.

Point with his Teſtimony. And for the firſt Witneſs produced in his Lordſhip's behalf, it is but a Hearſay from one that ſpake it at the Table.

Hereupon the *Sheriff* was again interrogated, who teſtified upon Oath, That he had his Hearing well till about *Chriſtmaſs* laſt, and ſaid, he ſtood within four yards of the Earl of *Strafford* when he ſpake theſe words at *York* Aſſizes.

Two other Witneſſes were produced, who teſtified the forementioned words to be ſpoken by his Lordſhip, the firſt whereof gave an Account of the Occaſion.

In Anſwer to this new Teſtimony the Earl ſaid, That the Point he muſt inſiſt upon is, *That the very words, if they had been ſpoken by him as they are laid, are no Treaſon within the Statute, and that being a Point of Law, he craved leave to reſerve himſelf to be heard by his Counſel in a fitting time.*

Then ſaid the Gentleman that managed the Evidence againſt him: Your Lordſhip may be pleaſed to take notice, that there are five Witneſſes expreſs in the Point. Upon which your Lordſhip's Judgment is expected.

Concerning greedy Cormorants and Hoarders of Corn, forbidding to tranſport any *Corn.*

Conſiderations being had the *30th* of *September*, of the manifold evil Practices, which for private Gain are too often put in practice, as well by Hoarders of Corn, as by Merchants and others, to enhance the Price thereof, which appeared in the time of the late Dearth: And yet falſe Rumours are ſpread and divulged of great Tranſportation of Corn, licens'd by Authority, to the diſhonour of the King and State; It was then declared by King and Council, 'That all the ſaid Rumours 'were moſt falſe, untrue, and ſcandalous, and the penalty of the Laws 'was ordered to be ſeverely inflicted on the Divulgers thereof; with 'a ſtrict Prohibition that for the ſpace of one Year no Corn or Grain 'be Tranſported; to the intent that the Plenty which then was, 'might not be turned to the enriching only of a few greedy *Cormo-* 'rants.

Counterfeiting of Seals uſually affixed to *Colcheſter* Bays.

One *Thomas Jupp*, a Clothworker of the City of *London*, being on the 12th of *October* at Bar of the Court of *Star-Chamber*, his Majeſty's Attorney-General, Mr. *Noy*, informed the Court that he had taken the Examination of the ſaid *Thomas Jupp*, concerning the Counterfeiting of Seals affixed to the Bays of *Colcheſter*, and the fixing them to other Bays of meaner condition; and ſhewed forth certain *Iron Stamps*, and pieces of Bays ſealed with *Counterfeit Seals*, put to Bays not of the making of *Colcheſter*, but of leſs eſtimation. And his Examination being read in Court, and he confeſſing the truth thereof; The King's Attorney-General prayed that ſome exemplary Puniſhment might be inflicted upon him. Whereupon the Court did declare in theſe terms, 'That the Offence of the ſaid *Thomas Jupp* is a falſe Cozenage and De- 'ceit to the Buyers, and a Prejudice to the Sale of their Clothes; and 'therefore the Court doth adjudg and decree the ſaid *Thomas Jupp* to 'be committed to the *Fleet*, fined a Thouſand Pounds to the King, and 'be ſet upon the *Pillary* in *Cheapſide*, with a Paper in his Hat, decla- 'ring the nature of his Offence; and alſo to be ſet upon the Pillory 'at *Cornhil-Exchange*, *Blackwell-Hall*, *Bocking*, and *Colcheſter*, upon ſe- 'veral Market-days, with the like Paper on his Hat.

Now

8 *Caroli.*

Now foraſmuch as the Decree of the Court in this Caſe is drawn up with great care, to prevent the like Abuſe for the future; We have inſerted the ſame at large in the *Appendix*.

A Complaint againſt a Judg for delivering an Erronious opinion about the ſetting Prices upon *Corn*.

Whereas by the Statute made in the Reign of King *Henry* the *8th*, prices of Victuals are appointed to be Rated in ſuch manner as in the ſaid *Statute* is declar'd; but it is manifeſt by the ſaid *Statute*, Corn is none of the Victuals thereby intended. Nevertheleſs ſome ill-affected perſons endeavouring to bring a charge upon the Subjects, contrary to Law, did ſurmiſe, that the prices of Corn might be rated and ſet according to that Statute, and thereupon great gain might be raiſed to his Majeſty by Licenſes and Diſpenſations, for ſelling Corn at other Prices: and a Command from his Majeſty being procur'd to the Judges, and ſent to them by Mr. *Noy*, his Majeſty's Attorny General, to deliver their Opinions touching the Queſtion, Whether Corn was ſuch Victuals as was intended to have the Price rated within the ſaid Statute? In anſwer to which Demand, Sir *R. B.* one of his Majeſty's Juſtices of the *King's-Bench*, in furtherance of the ſaid unlawful Charge endeavoured to be impoſed, as aforeſaid, the 30th day of *November*, in the eighth Year of his then Majeſty's Reign, did deliver his Opinion, *That Corn was ſuch Victual as was intended to have the Price rated within the ſaid Statute.* Which ſaid Opinion was afterward declared by *Parliament* to be contrary to Law, and the plain ſenſe and meaning of the ſaid *Statute*, and contrary to that Judge his own knowledge; and the Parliament afterwards, among other things, impeached him, *That this Judgment was given and delivered by him with a purpoſe and intention, that the ſaid unlawful Charge might be impoſed upon the Subject.*

Decemb. 20. Concerning Gold-Weights

'The King taking into his Conſideration, That the ordering of Coin, 'and the value of Coin within this Realm pertaineth to his Majeſty, as 'a part of his Regality; and that the making and allowing of Weights 'and Counterpoiſes of Current Money, whereby diſcovery ſhall be 'made of the Juſtneſs thereof, is proper to the King; And that many 'Complaints have bin made of many and great Abuſes daily committed 'within the Kingdom; That divers Counterpoiſes of the King's Mony 'of Gold, (commonly called *Gold-Weights*) and Beams and Ballances 'for the poiſing of thoſe Moneys, are made and put to ſale, marked with 'the King's Enſigns, yet are not equal and juſt, whereby the Subjects 'are deceived.

'Wherefore for Redreſs of ſuch Abuſes, and that the Beams and Bal-'lances may be equal, the Kings Majeſty hath taken into his own hands 'the making, aſſiſing and iſſuing of thoſe Counterpoiſes, or Weights 'with Grains; and hath appointed Sir *Thomas Ailesbury* to have the 'ſole making and putting to ſale thoſe *Gold Weights*, ordered to be 'of a round and circular form; prohibiting all others to make any of 'them, other than ſuch as ſhall be licenſed by the ſaid Sir *Thomas Ailes-'bury*, who is required to take care that the ſaid *Gold Weights* & *Grains*, 'or *half Grains*, ſhall be made ſo as the whole Kingdom may be ſup-'plied therewith. And that the Offenders againſt this his Majeſty's de-'clared pleaſure ſhall be proceeded againſt in the King's High-Court 'of *Star-Chamber*, or elſewhere.

At this time there was ſuch plenty of Gold in the Kingdom, and ſuch ſcarcity of Silver, that the Drovers and Farmers, who brought their

*An.*1632. Concerning the Plenty of Gold.

their Cattel, Sheep and Swine to be ſold in *Smithfeild*, would ordinarily make their bargain to be paid in Silver, and not in Gold; And beſides in this time people did ordinarily give two pence, and ſometimes more, to get twenty ſhillings in Silver for the exchange of a Twenty-ſhilling piece in Gold full Weight.

And in and about *London* and *Weſtminſter*, as well as in other parts, moſt people carried Gold Scales in their pockets, to weigh Gold on all occaſions, and had them from that Office for that purpoſe erected,

The Feoffees Inſtruments for *Impropriations* called in queſtion in the Exchequer. *William Noy*, Attor. Gen. Plantiff.

The Biſhop of *London*, as is already mentioned, having formerly projected the overthrow of the Feoffees for the buying in of Impropriations, as the main Inſtruments of the *Puritan Faction* to undo the Church; The Cauſe was brought by Information into the *Exchequer*, by Mr. *Noy* the King's Attorny General, *Plantiff*, againſt *William Gough*, *Richard Sibbs*, *Giles Off-ſpring*, *John Damport*, Clerks. Sir *Tho. Crew*, Knight; *Robert Eyers*, an Apprentice of the Law; *John White*, *Sam. Brown*, Utter Barriſters at Law. *Nicholas Rainton*, Alderman of *London*. *John Gearing*, *Rich. Davies*, *George Harwood*, *Francis Bridges*, Merchants; *William Leman*, *Thomas Foxley*, Clerks; and Mr. *Price*, *Defendents*.

The Information was to this effect.

The Information.

'That ſince the tenth Year of the Reign of the late King, theſe 'Feoffees, to the intent to procure into their hands divers Manours, 'Lands, and Tenements, Rectories, Tythes, Oblations, and Sums of 'Money, which well-diſpoſed People ſhould give to the ſuſtaining 'and endowment of Perpetual *Vicars*, having Cure of Souls, and other 'Charitable Uſes; did of their own Authority erect and make them-'ſelves into a *Society*, or Body Corporate, called ſometime by the name 'of the *Collectors of St. Antholins*; and uſed to hold Aſſemblies and 'Councils, and make Ordinances, appoint Regiſters and Actuaries for 'their doings: And have gotten into their hands Sums of Money, in-'tended by the Donors for the foreſaid Pious Uſes; With part where-'of they had purchaſed divers *Rectories*, *Tithes*, *Prebendaries*, *Lands* 'and *Tenements*, the Remonſtrances whereof are regiſtred in a Book, 'and had not imploied the ſame as was intended by the Givers, as by 'Law they ought.

Mr. *Attorney* further ſhewed, That it did appertain to his Majeſty's care, That ſuch Donations for Augmentation of Divine Worſhip and Publick Works of Charity, be not withdrawn, diminiſhed, or miſimployed, but be rightly diſtributed; and that an Accompt thereof ought to be made to his Majeſty in this Honourable Court, or elſewhere. That without the Writings, Evidences, and Regiſters remaining in the cuſtody of theſe Perſons, or their Officers, there could be no perfect Charge whereon to make an Accompt. Wherefore for diſcovery of what Lands, Goods, Chattels, and Sums of Money, had come into their hands, and how the ſame were imploied, and what Evidences and Regiſters remained in their keeping; and for an Accompt to be made of the diſtribution of all; He prayed Proceſs of *Subpœna* againſt them to appear in this Court.

The *Defendents* Anſwer.

The *Defendents* appeared, and made Anſwer, 'That they believed 'Impropriations in the poſſeſſions of Lay-Men, not imploied for the 'Maintenance of Preachers, was a great damage to the Church of *England*;

8 Caroli.

'*England*; and that the purchaſing thereof for the maintenance of '*Divine Service* and *Preaching*, is a Pious Work. And that as divers 'Men may by the Law join in the purchaſing of Manours and Lands, 'ſo without offence of Law they might confer how they might raiſe 'Moneys out of their own Purſes, and from their Allies and Friends, 'to purchaſe *Impropriations* for the maintenance of Worthy, Painful, 'and Conformable Preachers; and that the Lands and Revenues were 'ſufficiently conveyed unto *Richard Stock*, Alderman *Hoyley*, *Chri-* '*ſtopher Sherland*, deceaſed, together with themſelves.

'That they referr'd themſelves for the ſeveral States and Uſes there- 'of, to the ſeveral *Deeds*, *Wills*, and *Declarations* concerning the ſame. 'That the Donors of the Moneys, being many, gave the ſame towards 'the buying of Impropriations, Maintenance of Preachers, and ſuch 'other good Uſes, as the *Defendents* ſhould think meet; and not for 'the Endowment of Perpetual *Vicars*. That they had not converted 'to their own uſes any of the Moneys, or other things given or pur- 'chaſed. That they had not enacted, or made themſelves a *Body Cor-* '*porate*, otherwiſe than they have here ſet forth. That to their know- 'ledg they never preſented any to any Church, or Place in their diſ- 'poſition, who was not Conformable to the Doctrine and Diſcipline 'of the Church of *England*, and Approved by the *Ordinary* of the 'Place.

And Sir *Thomas Crew* anſwered for himſelf, 'That ſince *Hillary-* 'Term laſt, before the exhibiting of the *Information*, upon the Death 'of *Chriſtopher Sherland*, one of the Readers of *Grays-Inn*, he was 'moved by ſome of the Perſons above-named, to aſſiſt them in the 'Buſineſs; to which he willingly condeſcended, and was ready to join 'in ſo good a Work, the ſame tending to the maintenance of the 'Clergy that had not ſufficient Means, and were Conformable to the 'Orders of the Church, and painful and faithful in their Places.

Hereupon it was ordered, that the Books and Evidences ſhould be brought into the Court, which was done accordingly; Upon the reading whereof, together with the *Defendents* Anſwer, and upon hearing of the Cauſe debated by the Learned Counſel on both Sides, the Court declared,

Judgment of the Court.

That the Defendents *uſurped upon the King's Regality, and of their own Authority aſſume themſelves into a* Body *and* Society, *as if they had been Incorporated to a perpetual ſucceſſion, and made Ordinances and Conſtitutions to eſtabliſh themſelves in perpetuity, as appeareth by this their Ordinance.*

'*That whereas four of them were in the Order of* Prieſthood, *four were* 'Profeſſors *of the Common-Law, and the reſt* Citizens *of* London; *if any* '*of them ſhould die, or be removed, they ſhould elect one into his Place of the* '*ſame Condition. And that all thoſe that ſhould have the profit of* Impro- 'priations, *or obtain any Eccleſiaſtical Preſentation, ſhould be bound by cer-* '*tain Conditions which they had framed. Alſo they choſe among them a* 'Treaſurer, Secretary, Auditor, *and a* Common Servant of their Livery, '*and inflicted Mulcts upon ſuch of them as met not at their Aſſemblies.*

That they purchaſed diverſe Impropriations, but never reſtored one of them to the Church, by conferring it in Perpetuity upon any Incumbent, but kept them in their own hands, and diſpoſed of the Profits to ſuch Lecturers and Miniſters, and in ſuch Proportion, and for ſo long time as pleaſed them; and with other part thereof they bought Advouſons of Churches, Nomina-

tions

An. 1632.

tions of Lecturers and Schoolmasters, which the Court conceived was not in the intention of those that gave the Mony for buying in of Impropriations.

The Judgment of the Court.

Wherefore the Court was of Opinion, That the Proceedings of the Defendents was against the Laws and Customs of the Realm, and that they tended to the drawing to themselves in time the principal Dependency of the whole Clergie, that should have rewards from them, in such measure, and on such conditions as they should fancy, thereby introducing many Novelties of dangerous Consequence, both in Church and Common-Wealth, and making Usurpation upon his Majesty's Right.—That in not annexing Impropriations to perpetual Incumbents in purchasing Advousons, Nomination of Incumbents, Lecturers, and Schoolmasters, and buying and keeping of Leases, they had not behaved themselves as they ought to have done, nor according to the Trust reposed in them. And his Majesty having referred the further examination of these Designs, intending to question this Matter in the Star-Chamber, the Court did forbear to proceed to the inflicting of Punishments. Nevertheless it was Ordered and Decreed, That the Defendents should not from thenceforth hold any more Assemblies, or make Orders touching the Premises: Nor make any Alienations or Alterations of the Estates of the afore-mentioned Impropriations, Advousons, Manors, Lands, Tenements, and Leases, which shall remain in the Persons in whom they now are, till the Court take further order. And as touching the buying of these Impropriations, the Court thought it a pious Work; but the distribution of the Profits, as is before declared, would have grown to a great inconvenience, and prejudicial to the Government of the Church. And his Majesty's Pleasure was made known, That whatsoever had bin thus bestowed, should be imploied wholly to the Good of the Church, and the Maintenance of Conformable Preachers in the right and best way. And it was further decreed, That Commissions should be made to such as the Court shall nominate, to enquire of all Rectories, Tythes, Impropriations, and of all Leases appointed to be sold, and of all Sums of Mony appointed to be given for the purchasing of Impropriations; and upon the Returns made by those Commissioners, the whole Profits thereof shall be conferred upon perpetual Incumbents and their Successors, as his Majesty shall think fit. And as touching the Advousons, when any Church becomes void, the King's Majesty shall present, and School-masters shall be placed by his Nomination. And the Defendents shall make Accompt of all Receipts, before such Auditors as the Court shall appoint. And his Majesty's Attorney General may give them a discharge, or except against the Allowances demanded by them.

Moreover, the King gave direction, That the Arch-Bishop of Canterbury, the Lord Keeper, and other Lords and Bishops, should consider whether a Criminal Process should be made against the Feoffees? and if so, then whether in the Court of Exchequer, or Star-chamber?

Not many days after, saith the Bishop, Mr. Chancellor of *London*, Dr. *Duck*, brought me word how miserably I was slandered by some Separatists; I pray God give me patience, and forgive them.

Also in *February* this Year *Henry Sherfield* Esq; a Bencher of *Lincolns-Inn*, and Recorder of *Sarum*, was censur'd in the *Star-Chamber*, for taking certain Pictures of God the Father out of a Glass-Window in St. *Edmond*'s Church in *Salisbury*.

The

8 *Caroli.*

The Information in *Star-Chamber* againſt *Henry Sherfield* Eſq; a Bencher of *Lincolns-Inn.*

THe Information was exhibited againſt him, and divers other Perſons, by the King's Attorney General; ſhewing, That in the Churches, Chappels, and Sacred Places within this Realm, no private Perſon ought to alter or innovate any thing in the Fabrick or Ornament thereof, without ſpecial Licence from his Majeſty, or the Biſhops in their ſeveral Dioceſſes, much leſs deface or diminiſh any part thereof againſt their Direction: but the Defendent, *Sherfield*, Recorder of *New Sarum*, and dwelling in the Pariſh of St. *Edmonds*, being evil affected to the Diſcipline of the Church of *England*, and encouraging ſuch as oppoſe the Government thereof under the Reverend Biſhops; and the other Defendents, being of the ſame Opinion and Practice, and of the ſame Pariſh, did, by Combination, about *January*, *Anno* 1629, irreligiouſly conclude to deface and pull down a fair and coſtly Glaſs-Window in the Church aforeſaid, containing the Hiſtory of the Creation of the World; which had ſtood there for hundreds of Years, and was a great Ornament to the Church. And the Reverend Father in God, *John* Lord Biſhop of *Sarum*, having heard the Report of this Purpoſe, ſent a Meſſenger to Mr. *Sherfield*, and the other Confederates, to admoniſh them to forbear to put it in execution; and to that end he wrote a Letter to *Sherfield*, which came to his hand. Nevertheleſs *Sherfield*, with the Confederates, and other riotous Perſons, did, unlawfully, riotouſly, and prophanely break down that Glaſs-Window in ſcorn of his Majeſty's Government and Authority: And when that Prophane Act was done, they wickedly boaſted thereof, ſaying, *He that had done it, would ſhortly take down all the reſt.* That by this evil Example, other Wicked and Schiſmatical Perſons, ill-affected to the Government of the Church of *England* under his Majeſty, are animated to uſe the like violent and outragious Courſes; and the paſſing by of ſuch an Offence, committed by a Perſon of ſuch Place and Quality in that City, and by a Combination of other Confederates, being alſo Perſons of Note, would be of perilous Example.

Mr. Sherfield *put in his Anſwer on* May 20 *following.*

Mr. *Sherfield's* Defence.

THat the Church of St. *Edmonds* in *Salisbury*, about the Reign of King *Henry* the Third, was ordained to be a *Collegiate Church*, to conſiſt of a *Provoſt* and thirteen *Prieſts*, who were to dwell in a College-Houſe adjoining to the Church-yard, having a certain Revenue appointed to the maintenance thereof; which continued in Succeſſion, and the Prieſts attended the Service, and celebrated Maſſes, and Divine Offices and Rites to the Pariſhioners of St. *Edmonds* Pariſh. This College and *Collegiate-Church*, with the Poſſeſſions and Revenue thereof came, by Act of Parliament, into the Hands of King *Henry* the 8*th*, and remain'd in the Crown till the 7*th* of King *James*. About which time the King by Letters Patents under the Great Seal, did grant that Church by the Name of the *Rectory* of St. *Edmonds* Appropriate, as Parcel of the Poſſeſſion of the late College of St. *Edmonds*, unto *Anthony Gooch*, and *William Lloyd*, and their Heirs; who within, or about the ſame Year, conveyed the Church unto *John Baily* and his Heirs; who, together with *John Beckingham*, in the Year following, did convey it unto *Bartholomew Tooky*, one of the Defendents, and

An. 1632. to his Heirs, except the Church-Yard, Ditch, and Walks about the ſame, and Trees growing thereupon: Which excepted Premiſes, *Giles Tooker* Eſq; and *Edward* his Son, have ever ſince enjoyed under *Baily*'s Title. And that in the 13*th* of King *James*, the Defendent *Tooky* did agree for a competent Sum of Mony, to inſtate and convey the Church, for the behoof of the Pariſhioners of St. *Edmonds*, for ever; and made them an Inſtrument of Conveyance, by virtue whereof the Perſons intruſted were ſeized of the Church, as of a *Lay-Fee* upon Truſt.

That the Church is a *Lay-Fee*, and hath ſo continued ever ſince it fell to the Crown; and that from the ſame time it hath bin legally exempted from the Juriſdiction of the Biſhop of the Dioceſs; and the Defendents, with the reſt of the Pariſhioners, had lawful Power, without ſpecial Licence from the Biſhop, to take down the Glaſs of the Window, and to make up the ſame with white Glaſs.

That according to the Orders and Agreement of the Pariſhioners made in the Veſtry, the Steeple of the Church hath bin taken down and turn'd into a Tower; and alſo a part of the Wall hath bin taken down, to ſet a Glaſs Window in the room; and the Glaſs of other Windows hath bin taken down to ſet up new. The Reading Place hath bin removed from the Quire into the Body of the Church, and the Pulpit from one place pul'd down, and a new one ſet up; which Alterations were done, from time to time, by the Pariſhioners Agreement and Order, without ſpecial Licence from the King, or his Royal Predeceſſors, or the Biſhop of the Dioceſs, and that ſundry of them were made in the time of the Biſhop that now is.

That it was agreed, by an Aſſembly of the Pariſhioners in the Veſtry, *January* the 16*th*, 1629, That the Defendent might take down the Glaſs mentioned in the Information; and about the time therein mention'd, he took down ſome ſmall Quarries of the Glaſs, that the Glaſier might know, that that was the Window to be made new, and not any other.

But the Window yet remaineth, with a few Holes therein, ſo that the deſcribed Story may be plainly diſcovered: That it was not fair, nor coſtly, but of very rude Work; that it was but of four Lights only, and not any of the fair Windows of the Church; that the painting thereof, when it was made, did not coſt above forty ſhillings; and that he ſhall be ready to new make it, according to the Order of the Veſtry. He denieth all Confederacy with the other Defendents, and the riotous breaking of the Window: for that he took down a few ſmall Quarries in a quiet and peaceable manner.

And whereas his Religion and Fidelity to Almighty God, and his Duty and Allegiance to his Sovereign Lord the King's Majeſty, are brought in Queſtion; he ſaith, *The true Hiſtory of the Creation of the World was not contained in that Window, but a falſe and impious Deſcription of the ſame.*

The Painter, to expreſs God the Father, had painted the Forms and Pictures of divers little old Men ſeeming bare-footed, and cloathed in long blew Coats; and ſo ſetting forth every of the ſix days Work of God in the Creation, he had diſtinctly placed one ſuch Picture of an Old Man, made to repreſent the Creator of Heaven and Earth, in ſix ſeveral places; with the joining near to them the likeneſs of ſome created Thing, to denote thereby what was made on each of the ſix days:

days: And to ſhew the third days Work, he had painted the Sun and the Moon, which were created the fourth day, and had placed in the Hand of one of thoſe Pictures, repreſenting God the Father, the ſimilitude of a Carpenter's Compaſs, as if he had bin compaſſing the Sun, to give the true proportion thereof. To expreſs the fourth days Work, he made the likeneſs of Fowls of the Air flying up from God their Maker, whereas God created them on the fifth day. To expreſs the fifth days Work, he painted the ſimilitude of a Naked Man lying on the Earth, as it were aſleep, and ſo much of the ſimilitude of a Naked Woman, as from the Knees upward, ſeeming to grow out of the ſide of a Man, whereas God did create Man on the ſixth day; neither did the Woman grow out of the Man's ſide, but God took a Rib from the Man and made it a Woman. To repreſent the ſeventh days Story, he painted the ſeventh Picture of a little old Man, to reſemble God in the habit of the other ſix, but had formed it ſitting, to repreſent God's Reſt. 8 *Caroli.*

That this was an impious Falſification, and prophane abuſe of the Hiſtory: and he holdeth it ungodly, and altogether unlawful to frame any Image or Similitude of God the Father, Creator of Heaven and Earth, and the firſt Perſon of the *Holy Trinity*; and that it is more ungodly and prophane to ſet up any ſuch Image or Picture of God the Father in the Windows, Walls, or other parts of any Church dedicated to the Service of Almighty God, which he hopeth he ſhall be able in moſt humble manner to make appear to the Court, by the Holy and Pure Word of God, ſet down to us in the Books of the Old and New Teſtament; by the Canons of ſundry Ancient Councils of the Church of Chriſt; by the Decrees and Mandates of ſundry of the Chriſtian Emperors; by the Opinions and Writings of many of the Ancient Doctors and Fathers of the Church; by many Godly Writers of our Church, ſince the time of Reformation of Religion within this Kingdom; ſundry of whom did Seal their Belief with their Blood; by the Works of ſundry Godly Writers of our Church, yet living, whereof ſome are now Reverend Biſhops; among whom the Defendent hath cauſe to rely, in a ſpecial manner, upon the Doctrine of his Learned *Dioceſan*, the now Lord Biſhop of *Sarum*, in his Expoſition on the Epiſtle to the *Coloſſians*, pag. 97, and 98. Alſo by the Royal Determination of King *James*, in his *Præmonition* to all Mighty Monarchs, Kings, Princes, and Free-States of Chriſtendom.

That the ſame his Belief, is according to the Doctrine of the Church of *England*, eſtabliſhed by Act of Parliament, 13. *Elizabethæ*, expreſſed in the Book of *Homilies*, ſet forth by Authority; *That the Pictures of God were Monuments of Superſtition, and ought to have bin deſtroyed by the Statute made* 3, and 4, *Ed. 6th.* That Queen *Elizabeth*, *Anno* 1. according to an Act of Parliament then made, for the ſuppreſſing of Superſtition in all her Dominions, did publiſh her Injunctions, whereby all that had Cure of Souls, were commanded to inſtruct their Pariſhioners to deſtroy all the Pictures and Monuments of Idolatry and Superſtition; that no memory thereof might remain in Walls, Glaſs-Windows, or elſe-where. And that it was to be enquired of in the Viſitations, Whether all Images, Pictures, Paintings, and all other Monuments of Idolatry were removed? And that the ſame Injunctions being grounded on the Statute 1. *Eliz.* are yet in force. Alſo that the ſame was lawful by the Canons of this Church, ſet forth 13. *Eliz.*

An. 1632. *Eliz.* and agreed upon by the Arch-Biſhop of *Canterbury*, and all the other Biſhops of that Province.

And beſides the Indignity and Contempt offer'd to Almighty God by ſuch unworthy Reſemblances of his Majeſty, and Deity, in the foreſaid Window, there was a Speech, That ſome ignorant Perſons had committed Idolatry, by bowing before the ſame Reſemblance of God.

Laſtly; He denied that he was ill-affected to the Diſcipline of the Church of *England*, or had encouraged any, to his knowledg, to oppoſe the Government thereof under the Reverend Biſhops; or that the Biſhop of *Sarum* did ſend any Meſſenger, or write any Letter to him, to admoniſh him to forbear to put the Agreement of the Veſtry in Execution; or that any ſuch Meſſenger, or Letter, came to him; or that his Lorſhip, though he had frequent Conference with him, uſed any Speech touching his Pleaſure to have that Window ſtand as it was, or not to be taken down.

Upon the hearing of the Cauſe, the Court pronounced Sentence againſt Mr. *Sherfield*; ſome Lords were to fine him 1000 *l.* to the King, but the greater part only 500 *l.*

That Mr. Sherfield ſhould be fined 500 l. and be removed from the Recorderſhip of that City; make a publick Acknowledgment of his Fault, and be bound to his Good Behaviour.

And for further ſatisfaction, take the Words of the Decree, as it was entered in the Regiſter's Book of that Court.

Noy, *Attor. Regis v.* Sherfield, *Armig.*

'THe Defendent being troubled in Conſcience, and grieved 'with the ſight of the Pictures which were in a Glaſs Window 'in the Church of St. *Edmonds* in *New Sarum*, one of the ſaid Pi'ctures, to his Underſtanding, being made to repreſent *God the Fa'ther*, did procure an Order to be made by the Veſtry, (whereof him'ſelf was a Member,) That that Window ſhould be taken down, ſo as 'the Defendent did at his own Charge glaſe it again with White Glaſs. 'And by colour of this Order, the Defendent, without acquainting 'the Biſhop or his Chancellor therewith, got himſelf into the Church, 'made the Doors faſt to him, and then with his Staff brake divers 'Holes in the ſaid Painted Window, wherein was deſcribed the Crea'tion of the World; and for this Offence committed, with neglect 'of Epiſcopal Authority, from whom the Veſtry derives their Au'thority, and by colour of an Order of the Veſtry, who have no power 'to alter or reform any of the Ornaments of the Church, the Defen'dent was committed to the *Fleet*, fined 500 *l.* and ordered to repair 'to the Lord Biſhop of his Dioceſs, and there make an acknowledg'ment of his Offence and Contempt, before ſuch Perſons as the Bi'ſhop would call unto him.

Defacing a Church Window, by colour of a Veſtry Order.

At the giving of the Cenſure of the Court, the Biſhop of *London* ſpeaking in favour of the Painter, mentioned a place in Scripture, where, ſaid he, God is called the *Ancient of Days*, which might make the Painter of the Glaſs miſtake. To which *Edward* Earl of *Dorſet* replied, That by that Text was meant, *God from Eternity, and not God to be pictured as an Old Man, creating the World with a pair of Compaſſes.*

Conſidering

8 Caroli.
Prizing of Wines.

Conſidering the difference of the Rates at which Wines are ſold at this preſent, from what they were in this Year 1632, and formerly; it may not be uſeleſs or ungrateful to the Reader, to ſet down at large the *Contents* of a *Proclamation*, bearing date the 18*th* of *February* 1632, by which will appear the Reſpective Prices at which Wines were to be ſold either in *Groſs*, or by *Retale*, throughout this Kingdom.

'Whereas by the Statute made in the 28th Year of the Reign of 'King *Henry* the Eighth for *Pricing of Wines*, it is provided, that the 'Lord *Chancellor*, Lord *Treaſurer*, Lord *Preſident* of the King's moſt 'Honourable *Privy-Council*, Lord *Privy-Seal*, and Lord *Chief-Juſtices* 'of either Bench, or any five, four, or three of them, ſhall have Pow-'er and Authority by their Diſcretions, to ſet the Prices of all ſorts of 'Wines, as in the ſaid Statute is expreſſed. In purſuance whereof 'the Lord *Keeper* of the Great Seal of *England*, the *Keeper* of the 'Privy-Seal, the Lord *Chief-Juſtice* of his Majeſty's Bench, and the 'Lord Chief-Juſtice of the *Common-Pleas*, the 28*th* day of *December* 'laſt paſt, did order, That *Canary* Wines, *Muſcadal* and *Alicant*, ſhould 'be ſold in Groſs for Sixteen pounds the Pipe, and at Twelve-pence 'the Quart by Retale; *Sacks* and *Mallego's* at Thirteen pounds the 'Butt in Groſs, and Nine-pence the Quart by Retale. The beſt *Gaſ-'coign* and *French*-Wines at Eighteen pounds the Tun; and the *Rochel* 'Wines, and the other ſmall and thin Wines, at Fifteen pounds the 'Tun in Groſs, and Six-pence the Quart by Retale; and according to 'thoſe proportions for greater or leſſer quantities, either in Groſs or 'by Retale. And that none preſume to ſell at higher Prices, during 'the next Year then enſuing, whereof the *Clerk* of the *Crown* was to 'take notice, and to ſee the ſame proclaimed the then next Term in 'the *Chancery*, according to the *Statute*. And accordingly there hath 'been Proclamation made the firſt day of *Hillary* Term, being the '23*d* day of *January* laſt.

'Now that all cauſe of Excuſe may be removed from ſuch as inha-'bit in remote parts of this Realm; and that ſuch as ſhall be found 'Delinquents herein may acknowledge their own wilfulneſs, the cauſe 'of the Danger and Penalty they fall into after double Advertiſment; 'His *Highneſs*'s Will and Pleaſure is, and by the Advice of the Lords 'and the reſt of the *Privy-Council*, according to one other Statute made 'in that behalf in the Fourth Year of the Reign of his moſt noble Pro-'genitor, King *Edward* the Third, by his Royal Proclamation doth 'publiſh and declare, That for one Year next following, *Canary Wines*, '*Muſcadals*, and *Alicants* be ſold in Groſs at Sixteen pounds the Pipe, 'and at Twelve-pence the Quart by Retale; *Sacks* and *Mallagoes* at 'Thirteen pounds the Butt in Groſs, and Nine-pence the Quart by 'Retale. The beſt *Gaſcoign* and *French-Wines* at Eighteen pounds the 'Tun in Groſs, and Six-pence the Quart by Retale; and the *Rochel*-'Wines, and other ſmall thin Wines, at Fifteen pounds the Tun in 'Groſs, and at Five-pence the Quart by Retale; and according to 'theſe Proportions for greater or leſſer quantities, either in Groſs or 'by Retale. Which Rates and Prices his Highneſs's Pleaſure is, ſhall 'be duly obſerved in all his Ports, and other places within this Realm 'where Wines are landed, and within Ten miles of thoſe Ports and 'Places.

'And it is His *Majeſty's Pleaſure*, That in all Places where Wine by Land-

An. 1632. 'Land-Carriage ſhall be conveyed more than Ten miles from the next 'Port, the ſeveral ſorts of Wines aforeſaid ſhall and may be ſold ac- 'cording to the Rates aforeſaid, allowing Four-pounds the Tun, and 'one penny for the Quart for the Carriage thereof upon Land every 'Thirty miles, and according to that proportion, and not at greater 'Rates; ſtrictly charging and commanding ſuch of his Subjects, and 'others whom it may concern, That none of them, during the time 'aforeſaid, preſume to ſell any of the ſaid Wines in Groſs, or by Re- 'tale, at higher Rates than by his Highneſs's *Proclamation* are appoint- 'ed, under the Forfeitures and Penalties mentioned in the ſaid *Sta- 'tute*, and other Laws and Statutes of this Realm ordained in that be- 'half, and ſuch further Pains and Penalties as by the Laws and Statutes 'of this Realm can or may be inflicted upon the wilful Contemners of 'his Majeſty's Royal Command and Proclamation; Requiring and 'commanding all *Mayors, Juſtices of the Peace, Bayliffs, Cuſtomers, 'Comptrollers*, and other Officers of Our Ports, and all others whom 'it may concern, diligently to attend the execution of this Our Plea- 'ſure, and to give Information to the Lords and others of the Privy- 'Council, of the *Delinquents*, that they may be proceeded againſt, and 'receive Puniſhment according to their Demerits.

March 21. Commiſſion to the Lord *Preſident & Council* in the *North.*

A Commiſſion iſſued forth under the *Great Seal* of *England*, with certain Schedules of Inſtructions thereunto annexed, and directed to *Thomas* Lord Vicount *Wentworth*, and other the Commiſſioners therein named; whereby, among other things, Power and Authority is committed to them to hear and determine all Offences and Miſdemeanors, Suits, Debates, Controverſies and Demands, Cauſes, Things and Matters whatſoever therein contained, and within certain Precincts in thoſe *Northern* parts therein ſpecified.

Among other Matters in the ſaid *Inſtructions*, it is directed, That the ſaid *Preſident*, and others therein appointed, ſhall hear and determine, according to the Courſe of Proceedings in the *Star-Chamber*, divers Offences, Deceits and Falſities, whether the ſame be provided for by Act of Parliament, or not; ſo that the Fines impoſed be not leſs than by Act or Acts of Parliament are appointed.

The ſaid *Preſident*, and others therein appointed, have Power to Examine, Hear, and Determine, according to the Courſe of Proceedings in the Court of *Chancery*, all manner of Complaints for any Matter within the ſaid Precincts; as well concerning Lands, Tenements, and Hereditaments, either Free-hold, Cuſtomary, or Coppy-hold, as Leaſes and other things therein mentioned; and to ſtay Proceedings in the Courts of Common-Law by Injunction, or otherwiſe, by all ways and means, as is uſed in the Courts of *Chancery*.

And that no Prohibition be granted at all, but in Caſes where the *Preſident* and *Council* ſhall exceed the Limits of the ſaid *Inſtructions*: And that if any Writ of *Habeas Corpus* be granted, the Party be not diſcharged till the Party perform the Decree and Order of the ſaid Council.

Afterwards, upon the 24*th* of *March* 1640, the ſaid Lord Vicount *Wentworth*, then Earl of *Strafford*, and Lord-Lieutenant of *Ireland*, being Impeached in Parliament, one Article was, his *procuring the ſaid Commiſſion to enlarge his Power, &c.* And the firſt thing given in Evidence of this Charge was the Commiſſion granted to the ſaid Earl, dated

dated 21 *Martii* 8 *Car.* and the 19th *Inſtruction* authorizing him to hear and determine accordiug to the courſe of Proceedings in the *Star-Chamber*, and to impoſe Fines, *&c.* ſo as they be not leſs than by the Act of Parliament is provided. The 23*d Inſtruction* was alſo read, whereby Power is given by Injunction to ſtay Proceedings in any Court of Common Law: and the 28*th Inſtruction*, whereby Power is given to ſend the Serjeant at Arms, and attach in any part of the Realm: and the 29*th Inſtruction*, wherein it is expreſſed, That no Prohibition be granted in the Courts of *Weſtminſter* to ſtay Proceedings in the Court at *York*, but in Caſes where the Court of the *Preſident* ſhall exceed the King's *Inſtructions*; and if any *Habeas Corpus* ſhall be ſued forth for not performing the Order of that Court, the Party committed not to be diſcharged ſo long as ſuch Orders ſhall ſtand in force: and if any Fine be thereupon eſtreated, the *Treaſurer* and *Barons* of the *Exchequer* to diſcharge it. Then they deſcended to produce Teſtimony concerning the Earl ſending a Proceſs actually before thoſe Clauſes were granted, and procuring the Clauſes to be ſupplied when he found the Defect. 8 *Caroli.*

The firſt Witneſs did teſtify, That his Father was arreſted in *London* by a Serjeant at Arms in *Novemb.* 1632, and was kept eighteen weeks, and conceiving it to be out of the *Inſtructions*, did appeal to the *Council-Table*; That the Earl of *Strafford* being preſent, fell on his Knees, and beſought the King, That if his Inſtructions might not be ſo good as to bring in a Delinquent that had affronted the Court, if by ſtepping over the Water he ſhould go beyond the Precinct of it, he might leave that Service, and lay his Bones in his own Cottage.

Another Witneſs did alſo teſtify the ſaid Arreſt and Impriſonment.

As to the matter of *Prohibition*,

A Witneſs was produced in the Caſe between *Muſgrave* and *Vaux*, who ſaid, That notice being given that a *Prohibition* was procured by *Vaux*, and an *Affidavit* made that the ſame was ſerved; a Warrant was directed to the *Purſevant* to arreſt the Party that procured it; who being arreſted, and reſcued, another Warrant was directed for the bringing of the Reſcuers from *London*; and they were accordingly brought to *York*, and there impriſoned, and an Information was exhibited againſt them by Sir *George Ratcliff*, then the King's Attorney at *York*. This matter of Prohibition was referred to Mr. Juſtice *Hutton* and Sir *Robert Heath*, by the conſent of the Parties that were in Suit at *York*: but the Lord Preſident being acquainted with it, the Reference went not on that Term, but ſtayed till the Preſident's pleaſure was known. The ſaid Witneſs depoſeth, That the Lord Preſident did further ſay, That whoſoever brought a Prohibition there, he would lay him by the heels. And that as touching the Reference, his Lordſhip ſaid, It was a Cauſe that concerned the Juriſdiction of the Court of *York*, and no privat Man ſhall end it; he would try the Juriſdiction, and would go to *London* and acquaint the Judges with it, and if they remanded the Cauſe back again, ſo; if not, he would appeal to the King in it. That the Lord Preſident and Judges had ſeveral Meetings, but could not agree. And the Judges ſpeaking ſome things concerning the Prohibition granted to *Vaux*: the Lord Preſident replied, he ſhould not be in *England*, but he would have his body, or words to that purpoſe. Then a Counſellor at Law was produced, who teſtified that Judg *Hutton* acquainted him, that the Lord Preſident was angry with

An. 1632. with him for granting Prohibitions; which the Judg ſpake with a great deal of Paſſion, to ſee things carried in that manner; and did further teſtify, That underſtanding the Lord *Preſident* was angry with him the *Deponent* for moving for Prohibitions, he went to wait upon his Lordſhip, who ſaid unto him, I have nothing to ſay to you, you are one that oppoſe me, but for the preſent I have eaſed you of the Office of *Juſtice of the Peace*, ſo you need not trouble your ſelf with that.

That afterwards his Lordſhip met the Deponent in *London*, who ſaid unto him, I command you not to depart the Town; and applying him ſelf afterwards to his Lordſhip to know his Pleaſure, and withal making great Friends, all that he could underſtand by others was, That he was one that did oppoſe his Lordſhip; and the Witneſs did conceive that the Fault that he had committed, was, for not paying the *Knighthood-mony* in *Yorkſhire*, or for moving for Prohibitions, which later did oppoſe the Authority and Power of the Court of *York*. And that after 12 or 14 days ſtay in Town, by mediation of a Friend, he got leave to go into the Country, and then he paied the *Knighthood-Mony*. And that after this, the Deponent durſt not adventure to move for a Prohibition, nor any that had to do with him in thoſe parts durſt retain him till of very late, for he knew very well the price of my Lord of *Strafford*'s Diſpleaſure: And he further depoſed, that he was ſent for by a *Purſevant* to attend his Lorſhip at *York*, who told him, There was an Accuſation againſt him, but they that laid it were not come to Town, and therefore he muſt attend, and that they were his Betters. That after eight days cuſtody in the *Purſevant*'s hands, he was brought to the *Council-Table*, and his Lordſhip ſitting at the upper end, commanded him to kneel as a Delinquent; and in his kneeling, his Lordſhip was offended, in that he ſtaied no longer in that poſture; and then he underſtood the Matter to be for ſpeaking ſome words at the Seſſions in Defence of his Client, about the Traverſing of an Indictment; the Queſtion being, *Whether a bare Indictment were Evidence to the Petty Jury?* He, the Deponent ſaid, It was no Evidence, and he deſired to appeal to the Judges. Whereupon his Lordſhip was pleaſed to ſay, That he would teach him to know, there were other Men for him to appeal unto, (*viz.*) the Preſident and the Council. Whereupon he was put out, and Directions ſent that he muſt find Sureties, and make publick Submiſſion at the Seſſions for ſaying theſe words; which he did accordingly. And all this he conceived originally grew, for that he did oppoſe the Juriſdiction of the Court of *York*, and not for any the Cauſes pretended.

The other Branches of this Article were waved.

To this he anſwereth.

Firſt; The Inſtructions granted 21 *Mar.* 8. *Car.* were not procured by him.

Secondly; The Commiſſion and Inſtructions to the *Preſident*, and Council of *York*, are of courſe renewed upon the death of any of the Council of the Fee in Ordinary. And Sir *Arthur Ingram* going out, and Sir *John Melton* ſucceeding, thoſe Inſtructions were thereupon renewed. And as to the execution of the ſaid Commiſſion, from the date thereof to this hour, the Defendent did never one Act, or

ſtaied

ſtaied one minute as *Preſident* of the Council of *York*, the Commiſſion was granted 21 *Mar.* 8. *Car.* and he went towards *Ireland* in *July* following. 8 *Caroli.*

At the firſt Inſtitution of that Court, it had both a *Star-Chamber* and *Chancery* Power, as will appear by all the Inſtructions before that time; and if there be one Error in a Judg giving a Sentence, otherwiſe than a Man of better Underſtanding conceives reaſon for, there is no cauſe it ſhould be heightned to a *Treaſon* to take from him his Life, and Honour, and all he hath, meerly becauſe he was not ſo wiſe a Man as he might have bin, nor ſo underſtanding as another. If this be preſſed in Judges, he thinks few Judges would ſerve; and for his part, he confeſſeth, he had rather go to his Cottage, than be upon theſe Terms. The Sentence againſt Sir *Conyers Darcy* was juſt, and he complained not of it; and for the Sentence againſt Sir *John Bouchier*, the Defendent was not at all acquainted with it, being then in *Ireland*. But theſe two Matters are not inſiſted upon, yet it may be from hence obſerved, with what uncertainty Men may ſpeak, who do inform in ſuch Caſes. As to the firſt Witneſs, teſtifying his Father's Commitment at *London*, and Appeal to the Council, he ſaith, That was not in his Charge; and as to the Prohibition granted in the Caſe of *Vaux* againſt *Muſgrave*, he ſays, That alſo was out of his Charge, and he cannot ſay any thing to it but by way of Divination; and therefore he conceives that it cannot be able to convince any Man of *High Treaſon*, hardly of a *Treſpaſs*; and why the enlarging of a Juriſdiction ſhould be heightned to a Treaſon, he doth appeal to their Lordſhips Nobleneſs, Juſtice, and Honour, to conſider; for he thinks none are in that place of Judicature, but they will deſire to enlarge their Juriſdiction as far as in Reaſon and Juſtice they may; and it is a chaſt Ambition, if rightly placed, to have as much power as may be, that there may be power to do the more good in the place where a Man ſerves.

As to the Witneſs, who ſaid, He the Deponent commanded his ſtay in *London*, he hath nothing to ſay to him of exception, but that he ſpeaks to nothing in the Charge; the Defendent being charged with the Execution of the Commiſſion, 8, and 13, *Car.* and what the Deponent ſpeaks of, is precedent in time; beſides, his Depoſition is by hereſay from Mr. Juſtice *Hutton*.

Then he produced a Witneſs, who proved that he began his Journey into *Ireland* the 8*th* of *July*, 1633. and another Witneſs, That ſince the date of the new Commiſſion, he never ſat as Preſident of the North in any Cauſe whatſoever; and that he was in *Ireland* when the Commiſſion 13. *Car.* was renewed.

And ſo he concluded his Defence, ſaying, That he was charged only with procuring and executing that Commiſſion, both which he denies.

For Reply, the Committee deſired it might be obſerved, That one of the Witneſſes did ſpeak particularly of the occaſion of enlarging the Commiſſion upon the Arreſt of his Father; the Preſident falling upon his Knees, and deſiring his Majeſty to enlarge his Power, or that he might have leave to go home and lay his Bones in his own Cottage. And he grew ſo high a little before the renewing of the Commiſſion, that he ſaid, He would lay them by the Heels who brought the King's

An. 16 2. Writ. Whereupon the Council were ſo awed, that they durſt not demand Juſtice: So that the procuring a Renovation of this Commiſſion, ſuited moſt to his Deſign.

Seeing the Reader is now upon the Commiſſion and Inſtructions of the Lord Preſident and Council in the North, take the Opinion and Judgment of Mr. *Edward Hide*, a Member of the *Houſe of Commons*, in a Speech made by him to the *Houſe of Lords* concerning this Court, *Anno* 1640. which we the rather mention, becauſe he was one that ſhewed his Loyalty to the King, by being with him at *Oxford*, and other places in time of War; whoſe Expreſſions may make deep Impreſſions upon many, he being afterwards made by the King, Lord Chancellor of *England*.

My Lords,

'I Am commanded (ſaid he) by the Knights, Citizens, and Burgeſſes of the *Houſe of Commons*, to preſent to your Lordſhips a 'great crying Grievance; which though it be complained of in the 'preſent Preſſures but by the Northern Parts, yet by the Logick and 'Conſequence of it, it is the Grievance of the whole Kingdom. The 'Court of the Preſidents, and Council of the North, or as it is more 'uſually called, the Court of *York*, which by the Spirit and Ambition of the Miniſters, truſted there, or by the natural Inclination of 'Courts to enlarge their own Power and Juriſdiction, hath ſo prodigiouſly broken down the Banks of the firſt Channel in which it ran, 'as hath almoſt overwhelmed the Country, under the Sea of Arbitrary Power, and involved the People in a Labyrinth of Diſtemper, 'Oppreſſion, and Poverty.

'To remember your Lordſhips of the Foundation and Erecting this 'Court, and of the Progreſs and Growth of it, will not be unacceptable.

'Your Lordſhips well know, That upon the ſuppreſſion of all Religious Houſes to ſuch a value, in the 27*th* Year of *Hen.* 8. from that 'time to the 30*th* Year of that King's Reign, many (not fewer than 'ſix) Inſurrections and Rebellions were made in the Northern Parts, 'under pretence of that Quarrel, moſt of them under the command 'of ſome eminent Perſon of that Country; the which being quieted 'before the end of the 30*th* Year, that Great King well knowing his 'own Mind, and what he meant to do with the great Houſes of Religion; in the Year following, for prevention of any Inconvenience 'that might enſue to him upon ſuch Diſtemper, in the 31*th* Year of 'his Reign, granted a Commiſſion to the Biſhop of *Landaff*, the firſt 'Preſident, and others, for the quiet Government of the County of '*York*, *Northumberland*, *Cumberland*, and *Weſtmorland*, the Biſhoprick 'of *Durham*, the County of the Cities of *York*, *Kingſton* upon *Hull*, 'and *Newcaſtle* upon *Tine*. But, my Lords, this Commiſſion was no 'other than a Commiſſion of *Oyer* and *Terminer*, only it had a Clauſe 'at the end of it for the hearing of all Cauſes, Real and Perſonal. '*Quando ambæ partes, vel altera pars, gravata paupertate fuerit. Quod 'ita ut quomodo jus ſuum ſecundum Legem Regni noſtri aliter perſequi non poſſit.* Which Clauſe, how illegal ſoever, (for that it is illegal and void in Law, little doubt can be made) yet whether they exerciſed 'that

8 Caroli.

'that part of the Commiſſion at all, or ſo ſparingly exerciſed it, that 'poor People found eaſe and benefit by it, I know not, for at that 'time I find no complaint againſt that Court. And in the firſt Year 'of King *James*, a Commiſſion was granted to the Lord *Sheffield*, 'which varied not from the former, only it had reference to Inſtructi-'ons which ſhould be ſent, but we find none ſent. In *June*, in the 'ſeventh Year of the Reign of King *James*, a new Commiſſion was 'granted to the ſaid Lord *Sheffield*, very differing from all that went 'before; it being left out, That they ſhould enquire, *Per Sacramen-'tum bonorum & legalium hominum*, and to hear and determine, *ſecun-'dum Leges Angliæ*, relation being had only to the Inſtructions, which 'were the firſt Inſtructions which we can find were ſent thither.

'I ſhall not trouble your Lordſhips with theſe, or any other Inſtru-'ctions, but deſcend to the preſent Inſtructions and Commiſſions un-'der which that part of the Kingdom groans and languiſheth, ſince 'the Lord *Strafford* came to that Government, which was in *Decem-'ber*, 4. *Car.* And ſince the Commiſſion hath bin three ſeveral times 'renewed, in the 5*th* Year in *March*, in the 8*th* in *November*, in the '13*th* Year of his Majeſty's Reign. Into that Commiſſion of the 8*th* 'and 13*th*, a new Clauſe was inſerted for the granting, ſequeſtring, 'and eſtabliſhing Poſſeſſions, according to Inſtructions crowded in a 'maſs of new exorbitant and intolerable Power.

'Though our Complaint be againſt this Commiſſion it ſelf, and 'againſt the whole Body of thoſe Inſtructions, I ſhall not trouble 'your Lordſhips with the 9*th* Inſtruction, though it be but ſhort; 'which introduceth that *Miſeram ſervitutem, ubi jus eſt vagum & in-'cognitum*, by requiring an Obedience to ſuch Ordinances and Deter-'minations, as be or ſhall be made by the Council-Table, or High-'Commiſſion Court. A Grievance, my Lords, howſoever, *Conſue-'tudo & peccantum claritas nobilitaverit hanc culpam*, of ſo trancendent 'a Nature, that your Lordſhips noble Juſtice will provide a Remedy 'for it, with no leſs care, than you would reſcue the Life and Blood 'of the Common-Wealth.

'Read the 19, 22, 23, 24, 29, and 30, I will not trouble your 'Lordſhips with reading more, there being among them in the whole 'fifty eight Inſtructions, ſcarce one that is not againſt or beſides the 'Law.

'Whether his Majeſty may cantonize out a part of his Kingdom to 'be tried by Commiſſion, though according to the Rules of Law, 'ſince the whole Kingdom is under the Laws and Government of the 'Courts eſtabliſhed at *Weſtminſter*; And by this reaſon the ſeveral 'parts of the Kingdom may be deprived of that Priviledg, will not 'be now the Queſtion.

'His Majeſty cannot by Commiſſion erect a new Court of Chance-'ry, or a Proceeding according to the Rules of the *Star-Chamber*, is 'moſt clear to all who have read *Magna Charta*; which allowed no 'Proceedings, *Niſi per legale Judicium Parium & per Legem Terræ*; 'for our Court of *Chancery* here, by long uſage and preſcription, is 'grown to be, as it were, *Lex Terræ*. But, my Lords, the 30*th* In-'ſtruction goes further, and erects ſuch an Empire, ſuch a Dominion, 'as ſhall be liable to no Controul.

'The Courts of *Weſtminſter*, my Lords, have ſuperintendences 'over all Inferior Courts, to regulate their Juriſdictions if they

An. 1632.

'exceed their Limits, as to hold Plea of greater value, or the like'

'In the Exerciſe of Juriſdiction, the Judges are ſworn to grant and 'ſend Prohibitions: But to ſtop the granting of theſe Prohibitions, or 'to neglect them when they are granted, is the greateſt and boldeſt 'ſcorn of the Law, and the Law-Makers, that can be imagined.

'And whoſoever gave directions for theſe ſtout Inſtructions, might 'have remembred, that no longer ſince then *Michaelmaſs*, in the ſe-'venth Year of *Eliz. Rot.* 31. an Attachment was granted againſt the 'Arch-Biſhop of *York*, then Preſident of that Council, for forbidding 'the Goaler of *York* to deliver one *Lambert* his Priſoner, who was 'ſent for by a *Habeas Corpus* from the *King's Bench.*

'And can ſuch a Court as this, my Lords, deſerve to live? What a 'compendious abridgment hath *York* gotten of all the Courts in *Weſt-'minſter-Hall?* Whatſoever falls within the Cognizance or Juriſdiction 'of either Courts here, is compleatly determinable within that one 'Court at *York*, beſides the Power it hath with the Eccleſiaſtical and 'High-Commiſſion Courts.

'What have the good Northern People done, that they only muſt 'be diſfranchiſed of all their Priviledges by *Magna Charta*, and the *Pe-'tition of Right?* For to what purpoſe ſerve theſe Statutes, if they 'may be Fined and Impriſoned without Law, according to the Diſ-'cretion of the Commiſſioners? What have they done that they (that 'they alone) of all the People of this happy Iſland muſt be diſinheri-'ted of their Birth-Right, of their Inheritance? For Prohibitions, 'Writs of *Habeas Corpus*, Writs of *Error*, are the Birth-right, the In-'heritance of the Subjects.

'Your Lordſhips remember the Directions I mention, that by *Mag-'na Charta* all Proceedings ſhall be *per legale Judicium Parium, & per 'Legem Terræ.*

'Now theſe Juriſdictions tell you, you ſhall proceed according to 'your diſcretion, *ſecundum ſanas Diſcretiones*, that is, you ſhall do 'what you pleaſe; only that we may not ſuſpect this Diſcretion will 'be gentler and kinder to us than the Law; ſpecial proviſion is 'made in the Inſtructions, That no Fine, no Puniſhment ſhall be leſs 'than by the Law is appointed, by no means, but as much greater as 'your Diſcretion ſhall think fit. And indeed in this Improvement, 'we find Arbitrary Courts are very pregnant; if the Law require 'my good Behaviour, this Diſcretion makes me cloſe Priſoner; if the 'Law ſets me upon the Pillory, this Diſcretion appoints me to leave 'my Ears there. To proceed according to Diſcretion, is to proceed 'according to Law, which is *ſumma Diſcretio*, but not according to 'their private Conceit or Affection: For *Talis Diſcretio* (ſaith the 'Law) *Diſcretionem Confundit:* And ſuch a Confuſion hath this Diſ-'cretion in theſe Inſtructions produced, as if Diſcretion were only 'to act with Rage and Fury. No Inconvenience, no Miſchief, no 'Diſgrace, that the malice, or inſolence, or curioſity of theſe Com-'miſſioners had a mind to bring upon that People; but through the 'Latitude and Power of this Diſcretion the poor People hath felt 'this Diſcretion hath bin the Quickſand which hath ſwallowed up 'their Property, their Liberty: I beſeech your Lordſhips reſcue them 'from this Diſcretion.

'Truly, my Lords, theſe vexed worn-People of the North, are 'not Suitors to your Lordſhips to regulate this Court, or to reform

'the

8 *Caroli.*

'the Judges of it, but for extirpating theſe Judges, and the utter 'aboliſhing this Court; they are of *Cato's* mind, who would not ſub- 'mit to *Cæſar* for his life, ſaying, He would not be beholden to a Ty- 'rant for injuſtice; for it was injuſtice in him to take upon him to ſave 'a Mans life, over whom he had no power.

And afterwards the King gave his conſent, that this Court be abſolutely taken away by Act of Parliament.

A Plea and Demurrer over-ruled, and an Anſwer expunged in *Star-Chamber* all but four words and ten laſt lines.

At the latter end of the month of *March* this Year, an Information was prefered in the Court of *Star-Chamber* by *William Noy*, his Majeſty's then Attorny General, againſt *John Overman* and fifteen other *Soap-makers* Defendents, charging them with ſeveral Offences, contrary to diverſe *Letters Patents* and *Proclamations*, touching the making and uttering Soap, and uſing the Trade of Soap-makers, and other Offences in the ſaid Information mentioned. Whereunto the Defendents did Plead and Demur as to part, and anſwer to the other part of the ſaid Information: And the ſaid Plea and Demurrer being over-ruled, for that the Particulars therein inſiſted upon, would appear more fully after Anſwer and Proof: Therefore the Defendents were ordered to anſwer without prejudice, and were to be admitted to ſuch Exceptions to the ſaid Information, and advantages of the matter of the Plea and Demurrer upon the Hearing, as ſhall be material; and accordingly the Defendents did put in their Anſwer, and did ſet forth ſeveral Acts of *Parliament*, *Letters-Patents*, *Charters*, *Cuſtoms*, and *Acts* of Common Council of the City of *London*, and other Matters material conducing to their Defence, and in concluſion pleaded *not guilty*.

That Sir *Robert Berkley*, then being one of the Juſtices of the Court of *Kings Bench*, the 30*th* of *March*, in the eight Year of his Majeſty's then Reign, 1632, upon an Order of Reference to him and others, by the ſaid Court of *Star-Chamber*, to conſider of the impertinency of the ſaid Anſwers, did certifie the ſaid Court of *Star-Chamber*, That the whole Anſwers, excepting four words, and ten laſt lines, ſhould be expunged, leaving thereby no more ſubſtance of the ſaid Anſwers than the Plea of, *Not Guilty*.

And after upon a Reference to him and others, by Order of the ſaid Court of the impertinency of the Interrogatories and Depoſitions of Witneſſes taken on the Defendents part; in the ſame Cauſe the ſaid Sir *R.B.* the 2*d* of *May*, in the 8*th* Year of his then Majeſty's Reign, certified that 39 of the ſaid Interrogatories, and the Depoſitions upon them taken, ſhould be ſuppreſſed, and were expunged and ſuppreſſed according to the ſaid Certificate.

Both which ſaid Certificates were ſaid to be contrary to Law and Juſtice, and contrary to his the ſaid *R. B's* own knowledg, and contrary to the ſaid former Order, whereby the advantages were ſaved to the Defendents as aforeſaid; and by reaſon thereof the ſaid *John Overman*, and the ſaid other fifteen Defendents, were Sentenced in the ſaid Court of *Star-Chamber*, to be committed to the *Fleet*, and diſabled from uſing their Trade of *Soap-makers*, and one of them Fined in the ſum of 1500 *l.* two of them in 1000 *l.* apiece, four of them in a thouſand Marks apiece; which Fines were eſtreated into the *Exchequer* without any mitigation.

And the ſaid Defendents, according to the ſaid Sentence, were Impriſoned, and deprived of their Trade and Livelihood, tending to the

An. 1632. the utter ruin of the ſaid Defendents, and to the overthrow of *Free Trade*, and contrary to the *Liberty of Subjects*.

The ſaid Judge being afterwards Impeached by the Houſe of Commons, in the *Lords Houſe*, for this, and for his Opinion in the caſe of Shipmony, and other matters laid to his charge; ſubmitted to a Fine of 10000 *l.* ſo not ſtanding to a Tryal upon the Impeachment, he made no defence, which if he had done, we ſhould here have done him right in mentioning the ſame.

Let us return to the Affairs in *Germany*, to be informed what Progreſs hath been made in the *Embaſſy* to the King of *Sweden*, for the advantage of the Prince *Elector Palatine*.

In *July* the *Ambaſſador* had his laſt Audience.

Towards the middle of *July* the Ambaſſador had his laſt Audience of the King of *Sweden*, about the reſtauration of the *Palſgrave* to his Dominions in the *Palatinate*, at which time the King of *Sweden* diſcourſed of Propoſals to this effect, (if the Copy I go by be right.)

1. *That the* Palſgrave *ſhould hold his Country as a Donative of the King of* Sweden.

2. *That he ſhould make no Martial Levies without the* Swedes *conſent.*

3. *That during this War he ſhould furniſh the* Swedes *with ſo many thouſand Men upon his own Pay.*

4. *That two of his chiefeſt Towns ſhould ſtand Cautionaries for the performing of Covenants.*

5. *That he ſhould make no League nor Article with any other Prince without the* Swedes *conſent.*

The *Ambaſſador*'s Anſwer to the King of *Sweden* concerning his unreaſonable Demands as to the Prince Elector *Palatin*

The Ambaſſador being moved at theſe Propoſals, as too hard and diſhonourable for the *Prince Elector Palatine* to accept of, uttered ſome words to the King of *Sweden* to this purpoſe.

That he hoped the great Succeſs which that King had in Germany: *and lately at the Battle at* Lipſwick, *did not heighten him in making theſe Demands, ſo as to forget the grounds of his Declaration, to reſtore the Liberty of* Germany, *or to forget his Maſter the King of* Great Britain, *who had ſent him the Aſſiſtance of ſix thouſand Men under the conduct of the Marqueſs of* Hamilton, *and the great Charge the King his Maſter was at in the raiſing, arming, tranſporting, and maintaining of thoſe Men, without any Conditions of Retribution from that King, and wherein his Maſter had expended above an hundred thouſand pounds.*

The King of *Sweden* huff'd at this Diſcourſe, yet at this time conquered the greatneſs of his Paſſion, but fell a quarrelling with the *Ambaſſador*, as if he had prevaricated from his Inſtructions, and that by his diſcourſe on ſome Points he ſeem'd to be *Hiſpanized*, as if his Deſign tended more in favour of *Spain* than *Germany*. This occaſioned a ſmart Reply from the *Ambaſſador* to that King, who when he heard it, fell into a great Fury, ſtamping up and down in a Rage and Diſcompoſure of Mind, and ſo they parted.

But afterwards, on *July* 19, that *King* ſent his Secretary to the *Ambaſſador*,

baſſador, who told him the King his Maſter could not agree to the Conditions propounded by him. The King of *Sweden* urging a Defenſive League, and for a limited time: But the *Ambaſſador* propounded a League only of Aſſiſtance, and the time indefinite and arbitrary. 8 *Caroli.*

Of theſe Proceedings the Ambaſſador gave an Account to Secretary *Cook*, to communicate to the King his Maſter, the King of *Sweden*'s abrupt breaking off this Treaty in this manner, as is expreſſed in the Letter to Mr. Secretary *Cook*.

Sent by Monſieur *Curtius*, together with a Diſpatch bearing date the 9th of *Auguſt*.

'That this King was not ſo prompt *in breaking off the Treaty*, and 'offering me his Recreditive, as he is *now ſlow* in performing the 'ſame, and giving me no Anſwer in writing to my *Memorial*. I have 'often preſſed my *Departure*, but am ſtill held up with *good words* and 'Excuſes; and finding he is not willing I ſhould yet go from his Camp, 'in that he conceives it may be prejudicial to his Affairs, having often 'prayed me to ſtay. I have ſollicited for a *Paſs* for my Secretary to go for '*England*, which he promiſed me at firſt, but *delayeth* it from day to 'day, and ſo hath kept him up there *ten days*. By what I hear, it ſhould 'ſeem he hath bin *too raſh* in breaking off the *Treaty*, and would fain ſet 'it on foot again; for afar off (not directly) ſo much hath been intimated unto me; and ſome of this King's Miniſters have been ſpeaking 'of *new Articles*, but I not hearkning thereunto, hear no more of it, 'being reſolved whatſoever future Overture ſhall be made unto me, 'not to entertain any, but civilly to excuſe the ſame, until I receive 'his Majeſty's Pleaſure unto this Diſpatch; and I do intend to tranſport my ſelf from this King's Camp towards *Strasburg* as ſoon as I can 'poſſibly diſingage my ſelf from him, and there to make my Reſidence, 'judging it to be the fitteſt place; for the Armies cannot long ſtay in 'theſe parts, and I know not where they can live, but in the Land of '*Wirtenburgh* and *Alſace*, all other Countries being already ſpoiled, ſo 'as I ſhall be near this King; if there ſhould be any occaſion for my 'return towards him if recalled. I am upon the *Rhine*, and may return 'either through *France* or the *Low Countries* as his Majeſty ſhall direct.

'Both Armies being faſt in their Works, keep themſelves within their 'Retrenchments, without attempting any thing one upon the other, 'but in little Skirmiſhes, ſometimes upon the Forragers, ſometimes 'upon the Guards. But in the end he ordered Col. *Dubartle* to go and 'Petard the Town of *Fredſtate*, where there was a Gariſon, and burn 'the ſame, it being a Magazine of Corn for the Enemy, and the Poſt 'between *Regenberg* and their Camp. At break of day, being arrived, 'he put two Petars to the Ports, but they failing, he put Ladders to 'the Walls, ſcaled them, and ſo entred the Town. He found few Soul-'diers there, thoſe that were, were in their Beds; ſo as finding no re-'ſiſtance, he ſet fire on the Town in ſeven or eight ſeveral places, burnt 'their Magazines, wherein were great quantities of Corn and Meal, 'and ſo retired.

'The ſame morning, being the 30*th* inſtant, this King had Adver-'tiſement that certain Troops were marched out of the Enemies Camp; 'he apprehending their intent was to cut off *Dubartle*'s Retreat, marches 'with a Party of 300 Muſquetiers, and 4000 Horſe, to ſecure the ſame; 'upon the way he underſtood that Serjeant Major General *Sparre* was 'near thereabouts with thirteen Companies of *Croats*, and 500 Foot; 'the King thereupon advances with ſome Troops, *Sparre* retires with the

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'the Infantry and ſome Troops of his Horſe, and under favour there-
'of gives a *brave Salvo* with his Muſquetiers upon four Troops of
'Horſe led on by Col. *Striſe*, and upon the King's Foot, where was
'killed on the King's ſide Col. *Riſe* who commanded the Foot, a Gen-
'tleman of the King's Chamber, one of his Pages, and divers of his
'Muſquetiers. On the Enemies ſide, it is eſteemed that there were
'two hundered left dead upon the place, and as many taken Priſoners,
'among which there was Serjeant Major General *Sparre*, Leiut. Col.
'*Gorden*, & Capt. *Leſlie* Scotſmen, two Leiutenants and one Enſign, all
'which were that night brought to the King's Camp, with one Cornet
'and two Colonels. The King hath of late propoſed to the Deputies
'of *Francfort*, this Town, *Ulme*, *Strasburg*, to which he would alſo
'have joined the Country of *Wirtenberg*, to take into conſideration
'the preſent ſtate of the War, that amongſt themſelves they would
'think of raiſing Contributions, the ways and means how to pay his Ar-
'mies which he hath declared unto them (conſidering the preſent
'ſtrength of the Enemy) muſt not be leſs than three Armies, each one
'conſiſting of 27000 Foot and 4000 Horſe. How welcom this Propo-
'ſition is to them, your Honour may well judg, for the Deputy of *Straſ-
'burgh*, excuſing that Town, in regard of their *Neutrality* with other
'Princes, and Situation, which ſhould they not keep, their Country
'would be burnt and ſpoiled. This *King* replied publickly in the face
'of the whole Court, that they had proceeded ſo coldly in the Cauſe
'of their Religion and Liberty, that they deſerved not only their
'Country, but their Town to be burnt and ſpoiled.

'This King expects within a few days an Ambaſſador from the
'French King, it is thought it is upon the old ground of *Neutrality*
'for *Bavaria*, and the Catholic League, but my Opinion is, *Bavaria*
'will not upon any Terms fall off from his new Alliances with the
'Houſe of *Auſtria*, though I underſtand he is tampering and treating
'underhand with the *Evangelics*, giving them aſſurance of his Affecti-
'on towards them, and his Reſolution to ſtand for the Preſervation of
'the Liberty of *Germany*, which is the only Reaſon that induceth me
'to apprehend, that this Embaſſie from *France* may be to draw the
'*Evangelics* and that Duke to a better underſtanding, and upon the
'old ground of removing the Empire from the Houſe of *Auſtria*, which
'if it be, your Honour may be aſſured the *States* have their parts there-
'in alſo.

'The Elector of *Saxe* hath ſent, or permitted four Regiments of
'Horſe and Foot, to join themſelves to the Army of *William* Duke of
'*Saxe-Wiſmar*, they are joined to him, and are at *Sweinfurt*. The
'Chancellor with his Army at *Wortzberg*, and the Landgrave of *Heſſe*
'joined to him. This King preſſes me much to ſtay with him until his
'Armies be joined; which I cannot well refuſe, though I deſire much
'to be gone from hence; for Men die faſt both in the Town and
'Camp: I cannot tell what to make of the Buſineſs between this King
'and the Elector of *Saxe*; for notwithſtanding he is marched into *Si-
'leſia*, as the Letters from *Lipſick* ſay this day, and the laſt Troops are
'joined, &c. This King told *Sparre* upon the taking of him Priſoner,
'that he had been much imploied between *Fridland* and *Sax*; that he
'knew that which imported him both in his Honour and Safety, that
'if he would not diſcover unto him truly all things, he would piſtol
'him upon the place. Unto which he made him this Anſwer, That he

would

'would diſcover as much as he could do with his Honour. *Caroli* 8.

'The third Inſtant *Camerarius* brought me the Recreditive from 'this King, the which I have herewith ſent your Honour. It is not 'abſolutely in the manner he told me it would be, when he brought 'me this King's Verbal Reſolutions concerning the Treaty, in Anſwer 'to my laſt Memorial. It is uſual with this King to repent himſelf 'when the Blow is given; for he hath often told me, ſince the Occa-'ſion at *Munchen*, ſpeaking with regret of that Proceeding, That he 'would give all he had to be Maſter of his Paſſions; but that when 'he begins but to be moved, he hath ſomething riſes in his Brain, that 'makes him forget what he ſaith or doth; that this he finds in him-'ſelf, and the Inconveniencies that grow thereof, as ſoon as he is 'poſed again; but yet he cannot get it maſtered, though he hath of-'ten deſigned the ſame; and therefore he hopes God and all the World 'will forgive him.

'*Camerarius* told me farther in this King's Name, That he deſired me 'to reſide with him, for that if any overture of Peace ſhould be ſet on 'foot between him and his Enemies, he had rather employ his Maje-'ſty's Ambaſſador than any, and me in particular. This King hath 'that imperfection, that for the preſent end he can put himſelf into 'any ſhape. This Propoſition I knew not well how to refuſe, ſince 'his Recreditive is not abſolute, but mixt; and that I know not up-'on what terms ſtands his Majeſty's other Treaties of Reſtitution, 'my ſelf judging it neceſſary for his Majeſty's Service, to keep this 'King in Appetite, and not to be looſe of him, until I receive anſwer 'by this Bearer to this Diſpatch; and therefore I accepted thereof 'with all civility and reſpect, having regard to your Honours Orders, 'which I received by the Diſpatch which Sir *Jacob Aſhley* brought; 'though I am ſtill of Opinion, That this King intends not Peace but 'in caſe of neceſſity; but that he ſeeing that the reſiding of his Maje-'ſty's Ambaſſador by him in this Conjuncture, is a countenancing of 'his Affairs; ſo his going from him conſequently will be a diſcounte-'nancing of them; and that this King will never part with what he 'holds in the *Palatinate*, though it may be counſellable, if a General 'Treaty ſhould enſue, to keep fair with him that he do no hurt; and 'ſo from them that have had their hands in oppreſſing of that un-'fortunate Prince, to endeavour a Reſtitution, whilſt there any hope 'from him or his.

'There was two days ſince taken Priſoner one Capt. *Leſlie*, who 'ſerves the Emperor in *Fridland*'s Army; he tells me, That *Saxe* is 'fallen off from the Agreement made between him and *Fridland*; 'that there hath bin ſent by *Fridland* divers Regiments out of his 'Army to join with *Don Baltazar*, who commands the Army in *Bohe-'mia*, with order to fall into the *Hereditary Countries* of the Elector of '*Saxe*: He ſaith boaſtingly, That *Fridland* and *Bavaria*'s Armies lying 'about us here, are 80000 Men; that they expect out of *Bohemia*, *Au-'ſtria*, and the other *Hereditary Countries* of the Emperor 30000 more 'that are now leavying; but withal privately confeſſeth, That in 'their Army there is great want of Bread, and that if a Blow ſhould 'be given to the Imperialiſts, this King having poſſeſſed himſelf of 'the Rivers and Paſſes, *Vienna* will run a hazard, for that they have 'upon this occaſion of *Fridland*'s Expedition, put up their late Effort; 'ſo as it is probable, whoſoever God will give the maſtery unto in

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'this preſent Occaſion (if it comes to Blows) will have the Affairs 'of *Germany* in his power; and ſhould this King prevail, it will cauſe 'great Revolutions, which before this Bearer can return unto me, ap- 'parently may be more clearly ſeen into.

'Since *Leſlie* was with me, one brought me a Letter written by the 'Elector of *Saxe* to the Marqueſs of *Cullinback*, wherein he adviſeth 'him to a Peace, for that the Empire cannot longer ſuffer War with- 'out total ſubverſion: So as of that Duke's Proceeding, I know not 'what to judg: This *Cullinback* is of the Houſe of *Brandenburgh*, and 'at preſent with this King. I have long ſince written for Blanks, to 'which you have hitherto made no Anſwer; I conceive them to be of 'uſe, eſpecially if the Affairs tend to Accommodation. *Fridland* 'ſpoke with much affection of his Majeſty, and caſt out words as if he 'would be a Friend (if he were ſought unto in the reſtitution of the '*Palatinate*) as Affairs may be. His Majeſty may have cauſe to make 'uſe of him. I purpoſe to ſee him; if the Blanks I have ſo long ſince 'written for, were by me, I could the better introduce my ſelf by one 'of them. The Jealouſies remain ſtill between *Fridland* and *Bavaria*; 'And if the *French* ſhall again engage themſelves with that Duke of '*Fridland*, it may be of uſe.

Norremburgh, 19 *Aug.* 1632. Your Honours, &c.

The beginning of this Month of *Auguſt*, his Majeſty of *England* writ this Letter to the Marqueſs of *Hamilton*.

The King's Letter to M. *Hamilton* to make an excuſe and to come for *England*.

JAMES,

I Have received three Letters from you by James Leſley, *about the 25th of* July, *all which I aſſure you have given me very good ſatisfaction, as well for your right underſtanding of Affairs in general, as to give me a light how to direct you in particular, which at this time is the only ſubject of mine. One of two you muſt chuſe, either to ſtay, or come away: For the firſt, it were very honourable to do (in the times of Action) if you had an Employment; but neither having, or likely to have any hereafter, it were dulneſs, not patience, to ſtay any longer; yet it is fit to come off handſomly, neither ſhewing impatience nor diſcontentment (if may be); although I think you have cauſe for both: therefore I have commanded* Henry Vane *to propoſe a new Employment for you; which though I think it will not take effect, yet it will ſhew there is no way unſought for to find you out an Employment with the King of* Sweden; *it is, that you may be ſent into the* Palatinate, *to aſſiſt the* French *with ſo many Men as my Contribution will maintain; which if it may be done, they promiſe me to put the* Lower Palatinate *in my hands. This, though I do not hold as Goſpel, yet if this Deſign might be put in practice, it might certainly prove uſeful to my Affairs: This being denied, (as I think it will) you have no more to do, but to ſeek a fair Excuſe to come hence, which will be beſt in my Opinion, upon the Concluſion of the Treaty between* Sweden *and Me: Or if any Rubs ariſe, that you might be ſent to clear it with me.*

So that upon the whole Matter my Judgment is, That if you cannot

ſerve

8 *Caroli.*

ſerve me in the Palatinate, *(as I have already ſaid) the beſt way is, That you take the firſt civil excuſe to come home to*

Oatlands, Aug. 1. 1632.

Your loving Couſin, and faithful Friend,

CHARLES R.

POSTSCRIPT.

David Ramſey *will (as I imagin) meet with you before you come hither, which if he do, I hope you will remember what I have ſaid concerning him already.*

The 24*th* of this Month, the Ambaſſador writ another Letter to Mr. Secretary *Cook.*

Norrenburgh, Auguſt 24.

A further Account by Sir *Henry Vane* of his Embaſſy.

'THe 12*th* of this preſent, I diſpatched my Secretary *Curtius* unto 'your Honour, by the way of *Hamburgh*, the only Paſs was 'then open; God grant he arrive ſafe; for two days after his depar-'ture, the Imperialiſts inveſted the ſame; He brings you the know-'ledg of the Affairs, and particularly how this King hath broken the 'Treaty. The 18*th* of this preſent, the King's Forces, under the 'Command of the Dukes of *Saxe*, *Wimar*, his Chancellor *Baneire*, 'and all his other Generals, joined themſelves to the King, a Dutch 'mile and a half from this Town, the Imperialiſts not ſo much as mak-'ing an offer to hinder the ſame.

'Thoſe Armies make in all 13000 Foot & 8000 Horſe; this day they 'advanced within a Dutch mile and leſs of this Town, and are encam-'ped between it and *Furth*, where I ſaw them in Battale; to the 'Eye they ſeem to be good Men: This King ſpeaks, that to morrow 'he will encamp them near, approach the Imperialiſts Camp, and can-'nonade them out of their Trenches; but that is ſooner ſaid than 'done, and will be difficult to effect, though ſomething will be done 'within theſe few days, the iſſue whereof I purpoſe to attend; and 'yet I am of Opinion, that neither Party will come to a formal Bat-'tel, but in caſe of a remarkable advantage.

'The King of *Bohemia*, notwithſtanding the breaking off the Trea-'ty, ſeems to me to have more hope than ever, and to believe, that 'the King of *Sweden* will reſtore him his Country, (God grant he be 'not deceived) unleſs it be in ſuch a manner, that it may not be per-'adventure worthy of his acceptation; but he believing the ſame, I 'conceive it not to be my Part to undeceive him; and upon this oc-'caſion, I ſhall propoſe unto your Honour, what way in my Opinion 'will be beſt for his Majeſty to take in the Negotiation of the *Pala-'tine*'s Intereſt, making judgment of the Affairs as now they are; for his 'Majeſty to continue an Ambaſſador longer here, I aſſure my ſelf his 'Majeſty ſhill not think fit. To deſert him or his Affairs abſolutely, 'I know his Majeſty will never do it: Neceſſary and requiſite it is to 'have an Agent reſident with this King, to have an eye upon the

An. 1632. 'Affairs, and leave the King of *Bohemia* to treat for himſelf, ſince 'he hath ſo confident a Faith, that by him he ſhall have his Countries 'reſtored; for he hath told Marqueſs *Hamilton* and my ſelf, within 'theſe few days, That he doubts not but to keep his Winter Quarters 'in *Heydelburgh*. And in this way his Majeſty may contribute to him 'of his Bounty towards ſuch an Accord, (if he ſhall approve there-'of).

The King of *Great Britain* being by this time fully informed by his Ambaſſadors, and by the Marqueſs, of the Tranſaction of Affairs with the King of *Sweden*, and the little hopes of ſucceſs, wrote this enſuing Letter to the King of *Sweden*.

CHARLES, &c. To the moſt Serene and Puiſſant Prince, our Brother, Couſin, and moſt dear Friend, *Guſtavus Adolphus*, &c. Health and proſperous Succeſs.

The King of *Great Britain* his Letter to the King of *Sweden*, recalling his Ambaſſador.

MOſt Serene Prince, Brother, Couſin, and moſt dear Kinſman; We have very ſatisfactorily underſtood by our Letters, that you embrace Our Friendſhip with ſingular fervency; and We alſo in like manner have not only, with the moſt imaginable Candor and Conſtancy made uſe of, but earneſtly catch'd at all Opportunities; not ſolely for the promoting of the Common Cauſe, but principally to maintain and adorn your Dignity and Welfare by all poſſible means: Nor do We queſtion but that your Serenity is ſufficiently convinced of this Matter, and that not ſo much by the frequency of Our Letters, as by the good Offices which we have decreed, rather to accumulate upon, than repeat. Yet this upon your Account is not to be paſſed over in ſilence, That We have ſent, as it were, out of our Boſom, the Marqueſs of Hamilton, *Our intimate Kinſman, a famous Pledg of Our Love, with an intire Regiment, at Our own Charges, to the remote Parts of* Germany, *that he might devote himſelf to your Service; by the Report of which Supplies, not only your Enemies, who are variouſly diſtracted one among another, but the Princes alſo of your Aſſociates, and Burgers, or Freemen, are kept and confirm'd in their Fidelity.*

At length this laſt Embaſſy of Ratifying a League with you, which is thus ordered; that firſt of all, We ſhould Act and Convene about an Auxiliary League for the recovery of Our Brother's Paternal Inheritance; and afterward, if need requires, of a Social One for the common Good and Safety; and this Method is moſt exactly preſcribed in Our Letters of Credence, and Inſtructions to Our Ambaſſador Henry Vane *Knight, one of Our Privy-Counſellors, and Chief Officer in Our Court, which he hath faithfully obſerved; nor did that Form which he received from Us ſignify any more, than that he ſhould more fully explain this Our Opinion, That what ſeemed convenient in your Judgment, might be at laſt communicated, without expence of Time, Wherein your Serenity, as well as all good Men, have had ſufficient experience beyond all Controverſy: That We never made any Alteration, either as to the Nature of the League, nor concerning the Power of Our Ambaſſador; nor ever revoked any thing about which he once Convened; nor that We ever proceeded at any time dubiouſly or ſcrupulouſly, but ever conſtantly maintained and fulfilled thoſe things which became a moſt Juſt Prince, moſt ſtudious of your Welfare, a great lover*

of

8 *Caroli.*

of our Brother, and finally the most Religious Propugnator of the Publick Good. But because it does not seem convenient in your Opinion to observe the way We have laid down, We leave it to your Prudence, and so at this present recalling Our Ambassador to other Offices, We wish you Health, and pray for your Felicity.

Your Serenities Good Brother and Cousin,

CHARLES R.

Upon the Ambassador's receit of this Letter from his Master to the King of *Sweden*, requiring his Ambassador's Return, the Ambassador thought fit to write this ensuing Letter to the *King*, to excuse his not coming in Person to take his Leave.

SIR,

Sir *Hen. Vane*, Ambassador, writes to the K. of *Sweden.*

THe King having thought fit to call me home, and withal commanded me to convey this Letter to your Majesty, which is in answer to that you were pleas'd to write by my Secretary Curtius. *It is not without a most sensible regret, that I am necessitated by expres Order to undertake my Voiage forthwith, and hereby be depriv'd of the opportunity to kiss your Majesty's hands again, and deliver you the said Letter in person; your Majesty shall receive it, if you please, from the hands of the said* Curtius, *who being appointed by the King my Master to reside near your Majesty, to manage his Affairs; I beseech your Majesty to believe, that tho the Commands of my King force me far from your Person, yet I shall ever be ready in the Design I have, to render you my most humble Service upon all occasions, and to preserve the Quality of,*

Your Majesty's most humble and most obedient Servant

Strasburg *the* 31 *of* Octob. 1632.

H. Vane.

The Ambassador wrote a Letter also to the King of *Bohemia*, giving him notice, that his Master had recalled him home.

SIR,

BY the return of my Secretary Curtius, *I have received Order from the King to return to him with all diligence, and for the present to leave* Germany. *If this Revocation obstruct my continuance in your Majesty's Service in these Parts; yet I am confident that I shall still be Master of greater opportunities to employ my self at Court; where probably, I may be more capable of procuring your Majesty's desires, then I have bin hitherto; being near a Master who has a greater desire then ever not to abandon his former Resolutions to your advantage. Your Majesty may give an infallible conjecture thereof; that notwithstanding my being called home, he hath thought good to establish my said Secretary for the continuation of his Affairs with the King of* Sweden; *and to the end that your Majesty might have a more ample Information; I have ordered him to go directly to* Mentz, *to give you an account of the Transactions, that have passed here in* England, *and to present my most humble excuse to you, that upon my positive directions which oblige me with all diligence to accelerate my return, I have dispensed with the going so far out of my way, resolving to take a shorter Cut through* France, *and to sail to* England *from* Calais. *In the interim, if your Majesty imagin, that it may conduce to your Service, to lay any Commands upon me before*

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before I arrive in England, *I have ſent with the ſaid* Curtius *a* Courier, *who will overtake me in the way, and will bring me your Majeſty's abſolute Reſolutions. I do daily reſolve with all the power I have to put them in execution, it being my deſign of perſiſting in the real reſolution, of remaining*,

Sir,

Your Majeſty's moſt humble and moſt obedient Servant,

Starſburgh 31 Octob. 1632.

H. Vane.

The Ambaſſador at his departure left theſe Inſtructions for Mr. *Curtius* his Majeſty's Agent with the King of *Sweden*, according unto which he was to govern himſelf with that King and the King of *Bohemia*.

The Ambaſſadors Inſtructions to Mr. *Curtius*.

1. The King of *Sweden* being now by the event of War in the Elector of *Saxes* Countries, or thereabouts, you are from hence to go to *Mentz* (it not being out of your way to the ſaid King) there to attend his Majeſty of *Bohemia*, and to give him all aſſurance of the continuation of his Majeſty's love and affection towards him and his, howſoever the Treaty ſo long agitated betwixt the two Kings hath bin thought fit by the King of *Sweden* to be remitted till a more convenient time.

2. If you ſhall find that the King of *Bohemia* ſhall further preſs you upon particulars concerning the Treaty, you are to let him know, that the Collonels *Pebely* and *Kelbe* having been deputed from his Majeſty to my Lord Ambaſſador the day before his coming from *Nuremberg* to confer with his Lordſhip upon that King's Affairs, which Conference, it was thought fit and neceſſary by them, that a motion ſhould be made by his Lordſhip to the King of *Great Britain*, not to begin any further Treaty with the King of *Sweden*, or permit him to make any more Levies in his Dominions, until he ſhould firſt conſent and reſtore to him what he poſſeſſed of his in the *Palatinate*. His Lordſhip after ſome Conference with the ſaid Deputies upon that Affair condeſcended to that motion, ſo he might be aſſured before his departure, that it was their Maſter's pleaſure to ſend unto his Reſident in *England* to ſecond the ſame. Hereupon the ſaid Deputies returned accordingly and declared unto his Lordſhip, that as ſoon as his Majeſty ſhould arrive at *Francfort*, he would diſpatch an expreſs into *England* with Orders to Sir *Francis Netherſole* to move it alſo; you are to ſignifie unto that King that upon your departure from thence, the ſaid Expreſs was not yet arrived.

3. And becauſe new overtures of Treaty are made unto that King by the King of *Swedens* Miniſters, you are to enquire particularly what thoſe are, and how they are entertained by his Majeſty.

4. You are likewiſe to inform your ſelf how far the *French* King hath an eye upon the Proceedings of the King of *Sweden* with the Town of *Straſburg* what they do now in the *Palatinate*, and what the French may contribute thereunto, and in particular concerning *Frankendal* what deſigns, or aims either of the ſaid Princes have upon that Town, and whether the *Spaniards* might not be induced to conſign the ſame into his Majeſty of *Great Britain*'s or the King of *Bohemia*'s hand.

5. Laſtly, That you uſe all poſſible induſtry to diſcover thoſe who for

for the time paſt have endeavoured, or for the future ſhall endeavour either by Letters or otherwiſe to do ill Offices, or work miſunderſtandings between the two Kings of *Great Britain* and *Sweden*, with whom it is moſt neceſſary for the good of the Publick, there ſhould be a ſtrict and perfect Intelligence. 8 *Caroli.*

The King of *Bohemia* having great confidence in the King of *Sweden's* Aſſiſtance, for his Reſtauration, writes his mind frankly to the Ambaſſador from *Lec Hauſen* near *Auſpurg* to this effect.

The King of *Bohemia* his Letter to the Ambaſſador.

I *Received your Letter after I had paſſed the River* Lech. *I do not queſtion but you have already underſtood the Paſſages here, that* Tilly *and* Altrin *have been wounded; The Duke of* Bavaria *has abandoned* Newburgh, *and retired to* Ingoldſtadt. *I will now give you an Account of the Surrender of* Auſpurgh; *The Gariſon quitted the place this Afternoon, being* 3500 *ſtrong, and the King's Forces are entred; himſelf hath taken a Survey of the Town without the Walls, and to morrow will make his Entrance. So all things ſucceed according to deſire. I am very glad of the hopes you give me that I ſhall be ſo happy as to ſee you. I preſume the ſeaſon will keep you here at* Frankfurt *a long time. For my own part I have no cauſe to complain; for the King is ſtill of a very good humour, and continues the teſtimony of his great affection for me and my Concerns. I do not preſs him to any thing as yet, I hope all will go well; I ſhall not ſwell this Letter to any greater bulk, but only to aſſure you that I ſhall ever remain*

From Lec-Hauſen
near Auſpurg.

Your moſt affectionate Friend,

Frederic.

Marqueſs *Hamilton's Army* reduced to two Regiments,

Duke *William* of *Saxon Weymour*, Leivtenant General to the King of *Sweden*, was ſent to by that King to take the *Engliſh* and *Scotiſh* Forces of the Marqueſs of *Hamilton's* Army under his Conduct, who were by that Duke reduced to two Regiments; the firſt was that of the Engliſh, over whom was *William Balladine*, a Scotiſh Gentleman, made Colonel, and *Terwhit* Lieut. Colonel.

Who are ordered to march to relieve the King before *Noremberg.*

Of the Scotiſh Regiment *Alex. Hamilton* was made Colonel. Here lay both the Regiments until they were drawn out by order from Duke *William* to go with him to diſingage the King before *Noremberg*, where they peiced in with two Regiments of Foot more, the blew Regiment whereof *Roſs* was Colonel, and the Green Regiment was led by Col. *Warder*, to whom were joined a Regiment of Horſe and four Companies of Foot, thence they go to *Lutzen* in *Miſnia* (where a Battle was afterwards fought) of which more in its proper time.

The King of *England* had kind thoughts for Sir *Jacob Aſhley.*

The King of *England* having notice of this Reducement of his Army, intimated to the Marqueſs the high Eſteem he had of the worth of Sir *Jacob Aſhly.* And writ to him, that he could have wiſhed that the Engliſh Regiment that was reduced had been conferred on Sir *Jacob Aſhley*, but the King of *Sweden* was otherwiſe inclined.

If it were not troubleſom to the *Reader*, we would willingly give him (before we totally leave *Germany*, and though the Ambaſſador is come away) a brief Account of ſome Military Engagement by the *Swedes*

An. 1632.

The taking of *Crutzenack* by Aſſault, the Kings of *Sweden* and *Bohemia* preſent.

Swede's Army, wherein the *Engliſh* and *Scots* were concerned in the Action.

The King of *Sweden*, upon his March out of *Bavaria*, in the beginning of *February (Old Stile)* 1632, had a deſign to reduce the Strong Caſtle of *Crutzenack*, and came in Perſon, and the King of *Bohemia* with him, to ſee the ſame performed, and gave particular Directions for the Approaches, it being a place of conſiderable Strength, and where he met with conſiderable Reſiſtance from the Gariſon of the *Spaniards* there; however after having ſprung a Mine, and given three Aſſaults, which were performed by the *Engliſh* and *French* Voluntiers in his Army, the Place was carried by them, though not without ſundry being killed, and almoſt all of them wounded in the Aſſaults: At laſt they obliged the Governor of the Caſtle to demand Quarter, and the Capitulation was made by the then *William* Lord *Craven*, and Col. *Boulin* Quarter-maſter General of the King of *Sweden's* Army. The Conditions were to march away with their Arms within three hours, under a *Swediſh* Convoy. A *French* Marqueſs, Col. *Talbot*, of the Houſe of *Shrewsbury*, and Capt. *Douglaſs*, ſlain; The Lord *Craven*, Leiut.Col. *Winde*, Sir *Francis Fane*, of the Houſe of *Weſtmerland*, Mr. *Robert Marſham*, were all wounded.

The King of *Sweden* and *Bohemia* were preſent when the Aſſaults were made; and though this place was ſo taken by Aſſault, yet it is remarkable that none were put to the Sword after they were Maſters of it; the which was acknowledged by the Governor of the Caſtle, as a great clemency in the King of *Sweden*, and of thoſe *Engliſh* and *French* Voluntiers who gave them ſo frankly their Lives. When the Lord *Craven* came afterwards into the King of *Sweden's* Preſence, the King told him, *He adventured ſo deſperately, he bid his younger Brother fair play for his Eſtate.*

After the taking of the Caſtle, the King of *Sweden* deſigned for *Frankendale*; but *Tilly*, Lieutenant General to the Duke of *Bavaria*, having contrary to the Truce agreed upon (through the Interceſſion of the *French* King's Miniſters) between the King of *Sweden* and the Elector of *Bavaria*, appointed to beat up the Quarters of *Guſtavus Horn* (the King of *Sweden's* Field Marſhal) at *Bambourgh* in *Franconia*, the King changed that Reſolution, being highly diſpleaſed with *Tilly* for breach of Faith, and cauſed his Army to march directly towards *Bavaria*, where in his way he met with great Difficulties, both to gain the Paſſage over the *Danube*, more eſpecially over the *Lech*; yet was performed by him with extraordinary Prudence, Expedition, and Succeſs: for having viewed the latter, and finding an advantage of the Ground, whereby to facilitate his making a Bridg over the River, under the favour of his Cannon, he mounted in one Nights time near 120 Pieces of Battery, with which he did cruelly annoy *Tilly's* Army, which was incamped and intrenched under a Wood on the other ſide of the River, where General *Tilly* received a ſhot in his Knee by a Cannon Bullet, and General *Altringer* was hurt in the Head; ſo the Army quitted the Poſt, and the King, without any loſs, gained that important Paſſage into *Bavaria*; and *Tilly* was carried in a Horſe-Litter to *Ingoldſtadt*, where he languiſhed, and died ſhortly after; for whoſe Death there was great ſorrow among the *Catholick Confederate Germans* and *Spaniards*.

Which

8 *Caroli.*

Which advantage of the Paſſage was purſued by the King after his Army was refreſhed, till by the News of the Enemies approaching to *Ulm* to beſiege it, he broke up towards the Relief of that Place, but the Siege not going forward, he ſetled his Quarters near *Noremburgh*, where *Walleſtein* with the Imperial Army poſted himſelf likewiſe to bar the King's Paſſage forwards into *Bohemia*.

A further Account of the Paſſages at the Lech, *is given thus by another hand.*

The King of *Sweden* paſſeth the River *Lech*, playing hard upon *Tilly* with his Cannon.

The Enterprize was dangerous, and altogether impoſſible, as ſome conjectur'd, fearing the deſtruction of the Army might enſue thereupon. But the King's Courage and Reſolution ſurmounted all things, and made that Paſſage as acceſſible to him as others. The King of *Sweden* underſtanding the Serpentine Windings of the *Lech*, which form'd it ſelf at every turning into the figure of a half Moon, immediately he took up a Reſolution to prevail, for he intrenched himſelf, and raiſed three Batteries, which was contrived and executed without delay, in one Nights time.

As ſoon as the Batteries were made upon the Banks of the River, they went to work with 72 Cannon-pieces, which plaid upon ſix Regiments of *Tilly*'s Army, lodged in the Forreſt oppoſite to them. The *Swedes* plaied with the Cannon very ſeverely, without intermiſſion; the Bullets flying into the Wood, made a moſt dreadful noiſe among the Trees and Men: Theſe Cannon-ſhot did not only blind the *Bavarians*, but promoted the making a Bridg of Boats on the River near *Oberndorf*, by reaſon of the Smoke. As ſoon as it was raiſed, the King of *Sweden* commands ſome of his Companies to paſs and intrench on the other ſide of the River; which was done before the Enemy could well perceive it. Col. *Vangler* had the Honour, and Lieut. Col. *Forbaſe* to paſs firſt, at the head of 300 commanded Men; the King being extreamly ſatisfied with the Action, in making a Paſs over the River.

The Imperialiſts vainly attempt to hinder the *Swede*'s Paſſage.

As ſoon as *Tilly* had notice of it, he ordered four Pieces of Cannon to beat down the Bridg, and the Defences of the Terrace-Work. Before it could be made uſe of, He commanded ſeveral Regiments to attaque them, but the *Swedes* did incredible things till they were reinforced; which coming very ſeaſonably, after three obſtinate Aſſaults on both ſides, the *Bavarians* were forced to leave them in poſſeſſion, both of the Bridg and Half-moon.

The King of *Sweden* advanced his Troops with all poſſible diligence to paſs the River in Perſon, but the *Bavarians* did not ſtay till his arrival, for they diſlodged in the Night with great confuſion, and withdrew themſelves, part to *Newburgh*, and part of them to *Ingoldſtadt*.

Tilly wounded in the Knee with a Cannon Bullet.

Tilly was wounded in this Combat, and the *Bavarians* hereupon began to loſe their Courage; he was ſtruck with a Bullet of three pounds weight above the Knee, after it had made ſeveral rebounds; they had much ado to carry him off, for they were conſtrained to halt ſeveral times in the Retreat, and look after his Horſe-Litter; and whether it was the jogging thereof that incommoded him, the loſs of Blood, and the pain that he endured, the one and the other, made him fall into ſuch *Syncopes* and ſwooning Fits, that they often took him for

Carried wounded to *Ingoldſtadt*.

dead,

An. 1632. He dies at *Ingoldſtadt*.

dead, before they could carry him to *Ingoldſtadt*, where they thought to ſet his Knee, but all in vain; for after they had taken out of his Thigh four broken Bones, with unutterable torment to him, his Weakneſs, Age, and Grief, together with his Vexation and Melancholy brought him to his Grave.

His loſs was very much regretted by his own Party, and had bin more, but for his misfortune at the Battel of *Lipſick*, and ſince that which befel him after his Conqueſts. Many then remember the words of the Adminiſtrator ſpoken after the ſlaughter of *Magdenburgh*; *That Blood could not be expiated but by Blood; and that the Actions of Murderers were very ominous to the Souldery, ſooner or later.* In fine; except ſome of thoſe Miſadventures mentioned, *Tilly*'s Reputation was unſpotted, and his Courage, Valour, Experience, his Credit with Men of War, his Conduct, and his ſignaliz'd Services to his own Party for many Years, might juſtly challenge, on his behalf, the Title of one of the Greateſt Commanders of the Age. He obliged the Souldiers to cheriſh his Memory by a Legacy of 60000 Rixdollers, which he bequeathed to the *Veteran Regiments* that had ſerv'd under him.

His Legacy to the Souldiers.

The King of *Sweden* in great danger at *Ingoldſtadt*:

The King of *Sweden* having gained the Paſs over the *Lech*, marches into *Bavaria*, deſtroyed eighty great Towns, Caſtles, and Villages, *Ingoldſtadt* only excepted.

The King of *Sweden* advanced ſomewhat too near, to ſatisfy himſelf of the ſcituation of *Ingoldſtadt*, according to his uſual cuſtom, mounted upon a Gray Horſe: The Engineers of *Ingoldſtadt* conceiving ſome Perſon extraordinary in that Equipage, ſo level'd the Shot, that a Bullet took his Horſe in the Crupper, and covered him with Blood and Duſt. All his Retinue were in an unexpreſſible Terror, but they were ſoon changed into matchleſs Joys, when they underſtood their Head was ſafe, and their King ready to mount another Horſe, without any other Tranſport, and returned God thanks for his Preſervation.

All the Camp bore a part in this Aſtoniſhment and Joy, and ſupplicated the King carefully to manage the Lives of ſo many Millions of Souls as depended (under God) on his Conduct, ſince his Courage would not permit him to manage his own.

The King of *Sweden*'s Anſwer to the Recommendation of his Army to manage his Life more warily.

The King replied; *That the Bullet that ſaluted him ſo near that day, did put him in mind that he was Mortal, and ſubject to the ſame Accident as the meaneſt of his Souldiers, and to that general Law, which no Crowns, Victories, nor Armies can avoid. That it remained only for him to reſign himſelf to God's Providence, and that his Commades who had their Arms in hand with him, ſhould firmly believe, that the juſtice of the Cauſe, for which they expoſed themſelves to the hazard of Arms, had other dependency than his Life only. That the* German *Liberty would not want Maintainers, nor theſe Perſons here Succeſs, as long as they kept themſelves in God's Way.*

After the Death of *Tilly*, the Emperor was in great diſtraction how to preſerve the Empire, half of it being already ſubdued by the *Swede*; and the Duke of *Saxony* in a manner Maſter of *Bohemia*. The *Landgrave* of *Heſs* caſt himſelf on the *Swede*'s ſide; and the danger to the Empire ſeemed ſo great, as it ſtagger'd the Duke of *Bavaria*, his

8 *Caroli.*

his Country being now almoſt ruined, whether to ſtand any longer to the Houſe of *Auſtria.*

The Emperor after many Conſultations, and the extremity of the Affairs of *Germany* requiring it, obliged him to have recourſe to *Walleſtein*, whom he had formerly caſheer'd at the Diet at *Ratisbon*, as the only Perſon that ſeemed capable to ſave the *Empire* from Ruin; And the Duke of *Bavaria*, who had contributed much to the laying of *Wallenſtein* aſide from his Command, (and whom he perfectly hated) yet, ſeeing the Danger of his own Country, wherein the *Swede* had made great devaſtation, he ſeemingly complied with the Emperor to make *Wallenſtein Generaliſſimo.* And now was the Emperor put to great Difficulties how to gain *Wallenſtein* to accept of that Command; whereupon he privately permitted his Relations and Kindred to go unto him to ſound his Inclinations, and to tell him what an Honour it would be to him once more to be *Generaliſſimo* of the Empire, and ſo to ſpread his Fame throughout the World: But *Wallenſtein* well perceived the Artifice. He now ſaw the Buſineſs brought under his hands to effect the ſecret Deſign which he had in his Thoughts; ſo he anſwered his near Relations very ſparingly and modeſtly, that he was grown old, and deſired to remain Quiet, and not to be robbed of his Repoſe; and did much deplore the Misfortune of his Soveraign, the Emperor, as if he had bin deeply affected for him, having at that time Revenge in his Heart againſt the Emperor, for the ſaid Affront put upon him.

But at laſt ſeeing himſelf inceſſantly preſſed, he gave fained words, promiſing his Service but for four Months only, in which time he would undertake to raiſe an Army of 30000 Men; but declared, He would be Sole and Abſolute during that time, meaning not to be commanded by the King of *Hungary*, *Ferdinando* the Emperor's Son. For *Wallenſtein* retained privately in his Thoughts to uſurp the Kingdom of *Bohemia*, and to Act ſo for future, as to make himſelf King thereof.

His Acceptance of this Command gave Reputation to the Affairs of the Emperor; he gave out Commiſſions to levy 60 Regiments, and in two Months time raiſed an Army of 30000 Men, having ſome ſupply of Monies from the Emperor, and the Princes, and great Courtiers about the Emperor, who did contribute much towards that Service. His Army was no ſooner ready, but he ſent to *Vienna*, that the Emperor would ſend a General to command them; in the mean time he put in Emploiment the divers Colonels and Captains, and other Officers, whom he had retained ſince the time that he was diſmiſſed his Command; and his Kinſmen and Confidents had the greateſt command under him. At which the Miniſters of *Spain* and *Bavaria* were ſtartled, and feared he ſhould continue in Command, apprehending he had a Deſign of his own to revenge Injuries, and therefore would have had the Emperor to make *Ferdinando* King of *Hungary*, his Son to be *Generaliſſimo*; but the Conditions of Affairs was ſuch in the Empire, as they muſt caſt themſelves upon *Wallenſtein*, and upon his own Terms.

And by the beginning of *April*, he marched with his Army towards *Bohemia* to recover the City of *Prague* from the Duke of *Saxony*, wherein the Duke had 7000 Soldiers; and Summons being given, the Duke refuſed; *Wallenſtein* makes a Breach with his Cannon, and

*An.*1632. Commands the leſſer City to be Stormed, but the *Saxons* beat them off many times; but *Walleſtein* reſolving not to ſpare Mans Fleſh, makes his Horſe drive the Foot on again, and ſo overlays the *Saxons* with numbers and frequent attempts by Arms, that he by force enters this leſſer City, which preſently brought the other City to Compoſition, to go out with their Lives and Baggage, only with Swords by their ſides, and leaving their Colours, and other Arms behind them. Hereupon *Walleſtein* ſends the Colours he had taken to *Vienna*, and the Emperor creates him Duke of great *Glogau* in *Sileſia*.

And *Walleſtein* acted very ſucceſsfully in *Bohemia*, ſo that in the month of *June* he took *Egra* a ſtrong Gariſon Town, and other places. About the 17*th* of *June*, *Walleſtein* and *Bavaria* join all their Forces againſt the King of *Sweden*, reſolving to viſit him at *Noremburgh*, where the King had intrenched himſelf, being too weak at that time to Encounter *Walleſtein* and *Bavaria*, and *Walleſtein* makes his Head-Quarters betwixt *Noremburgh* and *Furt*, where *July* the 4*th* he ſate down and intrenches himſelf, having the faſtneſs of the Woods, and the tops of the Hills, and the advantage of being between the two Rivers *Rednitz* and *Pegnitz*. Thus did *Walleſtein* put his Army betwixt the King's Camp, and the Country of *Franconia*, whence his Forces and Victuals were to come, yet the King alſo had the help of the Town of *Noremburgh* to ſupply the Army with Proviſions.

On the 18*th* of *Auguſt* the King had drawn together thoſe Forces, which he had ſent abroad under the Commands of *Oxenſtern*, the two Dukes of *Weymar*, the Landgrave of *Heſſein* and *Bannier*, and on the 21*ſt* of *Auguſt* the King took a veiw of the whole Army drawn up into Battalia before *Walleſtein*'s Trenches, and ſtood in that poſture all day to make a Brave upon him, the King's Army conſiſting of 26000 Marching Men in Field & Battalia, and at this time in good health and luſty: but notwithſtanding this Bravado, *Walleſtein* would not budg a foot out of his Quarters, thereupon the King caſt up three great Batteries, and from thence played inceſſently into *Wallenſteins* Quarters, he thundring the like into the *Swedes* Quarters. But the next day, (*Auguſt* 22.) the King perceiving the *Walleſteiners* wiſely withdrawing themſelves out of the Beat and Raking of the Swediſh Ordnance, the King diſmounted his Cannon, and removed to poſſeſs himſelf of a certain Hill, which commanded *Walleſtein*'s Leaguer, hoping to beat him out of his Quarters, and to force him to fight. Which *Walleſtein* perceiving, retired himſelf into the Foreſt called *Altemburgh*, where he made uſe of an old Fortreſs, and ſtrongly intrenches himſelf, and barracado'd up all the ways, by cutting down round him the Trees. The Hill was very high and ſteep, craggy and buſhy.

But, notwithſtanding all Diſcouragements, the King having got all his Army together, reſolved to force *Walleſtein* out of his Trenches by Aſſault, which many of his own Commanders, as well as Scotiſh Officers, would have perſuaded the King againſt making an Attempt upon him on ſo great Diſadvantage. But the King underſtanding the Emperor had ſent to *Walleſtein* to avoid fighting, to weary out the *Swede* by delays, was the rather reſolved to attaque him in his Trenches, the King of *Bohemia* and Marqueſs *Hamilton* being at this time with the King of *Sweden*, were Eye-witneſſes of what followed preſently after in a ſharp Encounter.

On

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On the *Noremburg* ſide of his Trenches the King caſt up three great Batteries, and from thence played inceſſantly into *Walleſtein's* Quarters, he thundering as furiouſly upon the *Swede* again. General *Bannier* at that time was ſhot in the left Arm above the Elbow.

The King cauſed ſome greater pieces of Ordnance to be mounted upon his Batteries, and ſeeing then they did no hurt to the Enemy, for *Walleſtein's* Men drew out of the reach of the Swediſh Ordnance; Hereupon the King cauſed his Ordnance to be diſmounted, and drew the *Noremburgers* out of their Trenches, and that day paſſed moſt part of his Army over the River *Rednitz*, a little above *Furts*, where the *Engliſh* and *Scots* were placed to ſecure the Paſs.

Auguſt 24.

Walleſtein perceiving the King's intention to poſſeſs himſelf of a certain Hill which would greatly advantage the King to beat up his Quarters, thereupon retired into the Foreſt called *Altemburgh*, and ſtrongly intrencht himſelf, and barracaded up all the Ways, cutting down all the Trees round about, having a high Hill, and very ſteep for his advantage; nevertheleſs the King reſolved to fall upon him in his Trenches.

Walleſtein intrenches at *Altembergh.*

The King himſelf led the Van-Guard of the left Wing, Duke *William* of *Saxon Weymer* had the honour of the Battel to cloſe up the King's right hand, and Duke *Barnard* with the *Landgrave* of *Heſſen*, brought up the Rear; ſome of theſe Troops were ſent to fall upon the ruinous old Caſtle of *Altembergh* on the Hill, the winning and defending of which old Caſtle ſpent ten hours time; on both ſides many a brave Gentleman there loſt his life, many wounded, and many taken Priſoners. Then the King himſelf led on his Men cloſe to the Enemies Works and Batteries, but *Wallenſtein* made a ſtout reſiſtance, having the advantage of the higher Ground, Trenches and Batteries, maintained the Fight with extremity of confidence; the Cannons and Muſquets firing all day long, both ſides were deſperate in maintaining the Fight with Terror, Fury and Obſtinancy, Regiment attaquing Regiment, until the greater part of the Foot on both ſides were througly ingaged in the Medly. Moſt of the *Swedes* being come down from the Caſtle to the Plain, there began another Encounter, the Enemies Curiaſſiers iſſuing out upon the *Swedes* Muſquetiers, did ſo much overlay them, that they forced them to give ground, and many brave Commanders of the *Swedes* there taken and ſlain.

The Aſſault.

The King leads on his Men.

A deſperate Fight.

The night beginning now to approach, put an end to the Skirmiſh, and both ſides began to fall off from one another, having loſt their Sight rather than their Courage. Thus was there a drawn Battel. The *Swedes* indeed loſt their Hopes, and the *Imperialiſts* kept their Ground; the King did now (when too late) call to mind that many of his own, as well as *Scots* Officers, perſuaded him againſt this ſo raſh Attempt.

The night parts them.

A drawn Battel.

Now it was high time for the King of *Sweden* to ſound a Retreat; and much better had it been (ſaith one Hiſtorian) that a Charge had never bin ſounded: it was almoſt an impoſſible thing to get up the Mountain and attaque that old Caſtle without huge Diſadvantages.

Better never begun.

In this late Action on the King's ſide were ſlain the Count *Erſpac*, Maj. Gen. *Boctius*, and divers of the *Engliſh* and *Scots*; And now the King perceiving that *Wallenſtein* was reſolved to tire him out with expectation of a Battel, and that he would upon no other Terms accept of the Encounter, judged it his beſt courſe to leave the ſullen General in the faſtneſs of his Trenches, ſeeing he would not be drawn to a Feild

Commanders ſlain.

An. 1632. Feild Fight. So the King reſolved to enter into Action by way of diverſion, having ſecured *Noremberg*, a place which had been good to, and tender of his Army, by leaving *Kniphauſen* with ſufficient Forces to defend the place againſt *Wallenſtein*; ſo the King reſolves to fall into *Bavaria* amongſt ſome of the Catholick Leaguers Lands, and to force out *Walleſtein* by that diverſion: And on the 8*th* of *September* the King diſlodges, and *Walleſtein* diſlodges likewiſe.

Afterwards there happened many Encounters between Parties of both Armies, which we forbear to mention, leſt it weary the Reader, therefore accept a breif account of the King's return to *Noremburg*, and of the Battel at *Lutzen*, *Novem.*6. 1632. where the King of *Sweden* was Slain, referring to a more large account in the *Appendix*.

The King at *Naumbergh*.

On *Thurſday November* the 1*ſt* the King of *Sweden* arrived at *Naumburgh*, and the ſame day went out upon a Party for diſcovering the Enemy; after him, that afternoon went out theſe three Engliſh Gentlemen, L. Col. *Francis Terwhit*, Serj. Maj. *John Paulet*, and Capt. *Edward Fielding*. Theſe three taking the right hand way, the King being gone on the left, fell into an Ambuſh of the *Crabats*. The firſt and the laſt were taken Priſoners, and were carried into the Imperial Leguer, and kept under a Gaurd in the rear of the Army all the day of the great Battle at *Lutzen*. *Walleſtein* marched to *Lutzen*, where, and in the Towns thereabouts, his whole Army Quartered.

Two *Engliſh* Commanders taken priſoners, Detained till the Battel was over.

The King thereupon parted out of *Naumburgh*, and doubled his March, yet it was night before the Army could get within two Engliſh miles of *Lutzen*. The King had an ill Paſs to get over within two miles of *Lutzen*, and the King had another Paſs right againſt that which the *Imperialiſts* had poſſeſſed: he from thence let fly ſome Pieces of Ordnance among them, to let them know he challenges them to Fight, but they not liking the place, marched off in the night.

The King challenges the Imperialiſts to fight.

The *Imperial* Army was in a terrible Hubbub at the King's ſudden coming and getting over the Paſs, and *Walleſtein* began to think of places more advantagious to engage in Battel. He mounted his Ordnance upon the Windmill Hills, and then began to caſt up a Trench of Earth about them, working all night, and to make the Hedges and Ditches to ſerve for Breaſtworks to lodge his Muſquetiers in.

The Day of Battel.

Tueſday, the fatal ſixth of *November* began to draw near, the Drums beat a March towards the Enemy, but the morning proved ſo miſty, that it was impoſſible to ſee which way to march; but about eight of the clock the Miſt brake up; the King having made a Speech at the Head of his own Forces, and to the *German* Troops, gave the Word to the Souldiers, which was **God with Us**; *Walleſtein*'s Word was the ſame which *Tilly* had, *Jeſu Maria*; the King advanced about nine of the clock and ſhot off his warning Peice. The King's Army having all the way a full view of the Imperial Army, by which they perceived *Walleſtein* had much overpowered them in numbers, having a mighty long Front much above an Engliſh mile, from one Wing-end to another, which might well be, for *Walleſtein*'s Diſcipline was to march ten deep in File, and not many in Reſerves. The Armies being come within Cannon-ſhot, the great Ordnance began to play terribly on both ſides, till they joined Battel, and came to a cloſe Fight, wherein the King of *Sweden* was ſlain; or rather in a Party of Horſe with which he went before the Fight to diſcover the Poſture of the Enemy before the Miſt brake up, and was ſurpriſed by the Curiaſiers, and the *King*

A great Miſt.

The Word.

and

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and the King and his Party cut off; yet the Victory was obtained over *Wallenstein* and his whole Army. As for the Particulars and Circumstances attending this Battel, see more at large in the *Appendix*.

The Death of three Kings.

This Year was remarkable for the Death of three Kings; *Sigismond* King of *Poland*, who died the 29*th* of *April*; *Gustavus Adolphus* King of *Sweden*, who was slain on the Bed of Honour, *November* the 6*th*; and *Frederick* King of *Bohemia*, who died of the Infection the 19*th* of *November*.

Wallenstein's Ambition and Revenge.

Wallenstein Duke of *Fridland*, and the Emperor's *Generalissimo*, and a Prince of the Empire, was near his End; which gives us occasion to speak something of that great Commander, by former Successes over the *Danes* and *Saxons*; who having collected his Forces at *Egra* in *Bohemia*, and paid them three Months Pay in Mony, took the Oaths of Officers and Souldiers to himself, without naming the Emperor at all. And now his Revenge for being cashiered at the Diet at *Ratisbon* breaks out, and the Discovery is made, That he was to join with the *Swede*, and share all between them, and *Wallenstein* to be made King of *Bohemia*.

The Emperor seeing the Danger he was in, makes sure of the Garrison of *Prague*, the Capital City of *Bohemia*, by a round Sum of Money.

Wallenstein murdered.

Two of the Emperor's Colonels, *Gordon* and *Leslie*, Scots, and *Butler* an Irish Officer, being faithful to the Emperor, and abhorring the Design of *Wallenstein* to betray his Master, conspire *Wallenstein's* Death: and *Butler* comes first to him in his Bed-Chamber at *Egra*, as he was dressed for his Bed, cried out unto him, *Thou Traitor to the Emperor and Empire*, and ran him through the Body with his Partisan stark dead, and threw him out of the Window (as some write) and thus ended that Ambitious and Revengeful Man.

Wallenstine's Character.

This Character is given of him, That he was the Son of a Baron in *Bohemia*, and not raised from the Plough, as some would have it; for a Baron in *Bohemia* is one of the greatest Lords in that Kingdom, in which there are neither Dukes nor Marquesses. The Barons being so jealous of their Dignity, that if a Stranger Duke would be naturalized *Bohemian*, they would oblige him to quit his Title, and to content himself with theirs.

His Father brought him up in the Protestant Religion, and would have had him apply himself to Letters; but his turbulent Spirit inclined not that way, which induced his Parents to send him to Court sooner than they intended. So they presented him Page to the Marquess of *Burgh*, Son to the Arch-Duke *Ferdinand* of *Inspurg*; whilst he remained there, falling from a high Window, without hurting himself, he turned Roman Catholick; fancying, that after this happy Escape, he was reserved for something extraordinary; so he quit his Master, and travelled through *Germany*, into *England*, *France*, *Italy*, and other parts; and having much improved himself, returned into *Germany*.

The Troubles of *Bohemia* following, and the Nobility of that Kingdom confederating against the Emperor, *Wallenstine* was employed by the Emperor, he defeated 6000 *Hungarians* with fifteen Troops of

*An.*1632. of Horſe, which purchaſed him very extream Fame, and very extream Envy.

In this high Emploiment he added much to his Reputation in taking the Town and Dioceſs of *Halberſtadt*; conquered *Hall* and its Biſhoprick; waſted the Territories of *Magdenburgh*, entred into thoſe of *Anhalt*, fortified *Deſſan*, defeated *Mansfield*, and with him 4000 *Flemmings*, the chief Force of the *Daniſh* Army. After that, perceiving that *Mansfield* and *Weymour*, with their Forces, bent towards *Hungary* by way of *Sileſia*, to give Life to the Rebellion, and join with *Bethlem Gabor*; he purſued *Bethlem* and *Mansfield*, and finding them at the Siege of *Novegrade*, vanquiſhed them, cut in pieces the Janiſaries that were come to the Succour of *Tranſilvania*, and drove *Mansfield* out of *Germany*, who had bin its Terror for ſo many Years; returning into *Sileſia*, where he found *Weimour* dead, he obliging half his Troops to ſurrender themſelves, and overcame the reſt; took in all the Revolted Towns, and after he had pacified the Hereditary Provinces, led his Victorious Army, ſtrengthened by that of *Tilly*, againſt the King of *Denmark*.

With theſe great Forces, he defies the Marqueſs of *Urlach*, conquers the Archbiſhoprick of *Bream* and *Hoiſace*; filled his Troops out of the new Levies that *Charles* of *Lawenburgh* had raiſed for the Enemy; rendred himſelf Maſter of all that lies between the Ocean and the *Baltick*-Sea, leaving the King of *Denmark* nothing but *Glucſtadt*, and that little corner of Land which is ſeparated from the reſt of his Dominions. *Wallenſtein* drove the King of *Denmark* out of *Pomerania*, into which Province he had made a Deſcent and Progreſs, forcing him to remount his Ships, where yet perhaps he had not found his ſafety, if *Wallenſtein* had had Sea-Forces; inſomuch as from that time to the Peace of *Lubeck*, the *Dane* never enterprized any thing, contenting himſelf to ſuccour thoſe of the *Sound*, who were only able to ſtop the torrent of the Imperial Arms, which ſo many Nations had in vain oppoſed.

In this flouriſhing Eſtate of the Empire, leaves *Tilly* Lieutenant General to the Duke of *Bavaria* in *Frize*, to take up his Winter-Quarters; but in effect it was, that the Emperor might not have any longer the Duke of *Bavaria* for Companion, and that himſelf might remain without Competitor, ſole Director of all things.

Ferdinando the Emperor conferred on *Wallenſtein* the Dukedome of *Mecklenburgh*, who became Maſter of that Eſtate and Title. He ſecures himſelf of all the Ports in the *Baltick*-Sea except the *Sound*, to which he lays violent Siege.

And now he might quietly have enjoyed the Glory of his great and faithful Services, if his Ambition (that was always above his Fortune) had not tranſported him; he was ſtiled *Highneſs*, Eating alone, ſtamping Mony, ſoliciting Audiences, affecting to reſemble Kings; which corrupted the ſolidity of Vertue, and he was brought to an untimely end.

2000 Engliſh ſent to the aſſiſtance of the *Muſcovites*.

The Emperor of *Muſcovia* having a deſign to regain a great Town out of the King of *Poland*'s Poſſeſſion, called *Smolenskoe*, being a ſtrong Place, lying in the Borders of *Poland*, formerly taken by *Sigiſmond* King of *Poland* from the *Muſcovite*; he applied himſelf to the King of *Great Britain* for leave to raiſe 2000 Engliſh Men; to which

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which the King gave conſent, and recommended Colonel *Thomas Sanderſon* to command the Men that ſhould be raiſed. And having got a double Regiment together, he tranſported them by the *North Cape*, and landed them at *Arch-Angel*, being the North Part and Port to *Muſco*.

Well received and treated.

After they landed there, the *6th* of *Auguſt* this Year, they were nobly received and treated, and had large pay allowed unto them.

The *Muſcovites* preſently march with a great Hoſte, and lay in Siege to *Smolenskoe*.

The *Pole* marches alſo with a Potent Army to raiſe the Siege, and entrenching himſelf with all the Advantages that might be, to ſecure his Army againſt the Aſſault of the *Muſcovite*, and yet ſo ordered his Trenches, that he might by degrees ſend out ſtrong Parties to cut off Proviſions from going to the Camp of the *Muſcovite*.

The General for the *Muſcovites*, had a Deſign with 3000 Foot and Horſe, to fall upon the *Pole* in their Trenches, being weakned at that time by drawing off their Horſe to prevent the *Muſcovite* from being relieved by Proviſions. And having deſigned Colonel *Sanderſon* to command the Men, appointed him to attaque the Enemy in one Poſt: The General and he took a ſerious view of the Enemy's Camp, where to fall on. At which Colonel *Leſly*, a Scot, was offended that the General had not honoured him with that Service; and an Alarm being beaten, when they were taking the view, the General commanded *Sanderſon* to haſten to his Quarter; and in his paſſage *Leiſly* ſhot him dead with a brace of Bullets, without giving him the leaſt warning to defend himſelf.

Col. *Sanderſon* ſlain by Col. *Leſly*.

Upon which Murder, the Engliſh (in a rage) drew into a Body to be revenged upon *Leſly*; the Scots likewiſe drew iuto a Body, but the General prevailed with both Parties to mind their Duty againſt the Enemy, and promiſed the Murderer ſhould be ſecured, and accordingly he was put under a Guard. But the Enemy, the *Pole*, underſtanding this Diſtraction between the *Engliſh* and *Scots* in the *Muſcovite* Army, falls upon the *Muſcovites* in their Leaguer, greatly diſorders them, and kills five or ſix thouſand Men, and conſtrained the *Muſcovite* to accept of diſhonourable Terms; for a Peace was then concluded of all Matters in difference between thoſe two Princes concerning their reſpective Claims to that and other Places.

The *Pole* takes advantage of the difference between the *Engliſh* and *Scots*.

A Peace concluded.

After the General of the *Muſcovite* returned home, he had his Head cut off, and his Son the Lieutenant General, was whipt to Death about the Streets, and his Family baniſh'd for ever into the Country of *Ibera*, there to catch Sables for the Emperor's Profit.

The *Muſcovite*'s General put to Death.

The Murderer *Leſly*, after ſome time of durance in *Muſcovia*, was ſent into *England* a Priſoner; and here he was committed in Order to a Trial before the Court of *Chivalry*, where he was proſecuted by the Friends of *Sanderſon*; but that Court found they could not here puniſh Murder with Death, which was committed in a Foreign Nation. *Leſly* afterwards obtained his Pardon, and then returned again into *Muſcovia*, where he was, upon ſuſpicion of Treachery, impriſoned and condemned to Die; and from the top of a High Tower was flung down upon ſharp Stakes, and Spikes fixed in the Ground; and in that torture, endured for ſome time a lingering Death.

Leſly ſent Priſoner into *England*.

An. 1632.

At this time a Proclamation came forth for the well ordering of the Silk-Trade to this effect following.

'WHereas upon diſcovery of ſome notable Abuſes in the falſe Dying of Silk, which had crept in upon the Trade by the Fraud and Covetize of ſome ill-diſpoſed Perſons; whereby beſides the unjuſt increaſe of the Weights, the Silk was weakned and corrupted, and the Colour made worſe, to the great abuſe of Us and Our Subjects, and to the apparent overthrow of the whole Trade, if the ſame ſhould not have bin prevented: We taking into Our Princely conſideration the many Benefits that do redound to Our loving Subjects, by the Importation of Raw Silk from Foreign Parts, and working the ſame into Manufactures here at home, whereby multitudes of Our poor People are daily ſet on Work and maintained, though to Our own loſs; did heretofore, by our Publick Proclamation, given at Our Court at *Farnham*, the ninth day of *Auguſt*, in the ſixth Year of Our Raign, utterly forbid the uſe of all ſuch Deceit and Falſity in the Dying of Silks, and for the preſent did thereby preſcribe ſome Rules to be obſerved for the preventing of the like Abuſes thereafter, until upon ſerious and mature deliberation, by the Advice of Our Council, We ſhould be able to make a more abſolute Reformation.

'And whereas We finding by experience upon other Trades, That this ſo great and good a Work was not throughly and perfectly to be done and performed by any other way, than by a Corporation to conſiſt of thoſe Perſons and Members thereof, who having knowledg in the ſeveral Trades or Myſteries of Working and Dying of Silk, could beſt take timely notice of, and diſcover the ſeveral Deceits and Abuſes, which otherwiſe would from time to time be attempted and uſed therein; upon mature conſideration, did thereunto incline Us unto the way tending to the encreaſe of the ſaid Trade, and maintaining the eſtimation thereof, (which we much deſire); and thereupon by Our Letters Patents, bearing date at *Weſtminſter* the twentieth day of *May* laſt, did Conſtitute, Ordain, and Declare, That the Perſons therein named, being Perſons uſing the Trade of Buying, Selling, or Working of Silk, Gold, and Silver Thread, and the ſeveral Manufactures thereof, and their Succeſſors, ſhould for ever hereafter be one Body Politick and Corporate, by the Name of the *Governour and Company of Silkmen of* London, for the well ordering of the Silk Trade throughout the Kingdom of *England*; thereby giving them full Power and Authority, to Make, Ordain, and Eſtabliſh all, or any ſuch Laws, Statutes, Acts, Orders, Conſtitutions, and Ordinances, for the good Government, Order and Rule of the ſaid Governour and Company, and every or any of them: As alſo all and ſingular other Subjects of Us, Our Heirs and Succeſſors, reſiding within Our Kingdoms of *England*, *Ireland*, and Dominion of *Wales*; and intermedling with, or in any wiſe uſing or exerciſing the Art, Trade, or Myſtery of a Silk-Man, Selling or Working of Silk, Gold or Silver Thread, or Manufactures made of them, every or any of them, as to them ſhould ſeem meet and convenient, for the taking away, puniſhing and preventing

8 *Caroli.*

'venting all preſent and future Abuſes, that then had, or at any time 'then after ſhould or might ariſe, or grow upon the ſame Trade, 'in the Throwing, Twiſting, Dying, Mixing, Weaving, Working, 'or Selling of Silk, or Silk-Wares, or Gold or Silver-Thread; or in 'the ſeveral Manufactures made of them, every or any of them, and 'alſo all other Abuſes whatſoever, from time to time, growing or ari-'ſing upon the Silk Trade.

'And the ſame Statutes, Laws, Acts, Orders, Conſtitutions and 'Ordinances ſo had and made, to put in uſe and execution accordingly; and at their pleaſure to Revoke, Repeal, and Diſſolve the 'ſame, or any or them.

'Which Letters Patents we were the rather inclined to grant, for 'that We repoſed ſpecial Truſt and Confidence in thoſe of the ſaid 'Company, for the well-ordering of the ſaid Trade, and taking away 'the Abuſes uſed therein. That whatſoever Silk ſhould be found to 'be thereafter heavy dyed, ſhall be burnt and deſtroyed.

'And in regard of the certain Weights ſet by a former Proclama-'tion, We have repoſed ſpecial Confidence in the Care and Induſtry of 'the ſaid Governor and Company, to command Obedience thereunto.

Titles of PROCLAMATIONS, *&c.*

Pro Anno 1632.

A Proclamation commanding a due Execution of Laws, concerning *Lent and Faſting Days.* — *Greenwich*, June 24.

A Proclamation commanding the Gentry to keep their Reſidence at their Manſions in the Country, and forbiding them to make their Habitations in *London*, and places adjoining. — *Greenwich*, June 20.

A Proclamation inhibiting the reſort of his Majeſty's People to the Court for Cure of the *King's Evil*, and to reſtrain the acceſs of others from Infected Places. — *Greenwich*, June 26.

A Proclamation concerning the well-making of Soap. — *Greenwich*, June 28.

A Proclamation concerning the Poſt-Maſter of *England* for Foreign Parts. — *Oatlands*, July 19.

A Proclamation to reſtrain the Tranſportation of Corn, Wooll, Wooll-fells, Fullers-Earth, and Leather. — *Hampton-Court*, Sept. 30.

In Cam. Stell. Coram Conc. ibid. 12. *die* Octob. *Anno Octavo* Caroli *Regis.* Tho. Jupp.

A Proclamation concerning Gold Weights. — *Whitehall*, Decemb. 20.

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Whitehall, Jan. 12. A Proclamation prohibiting the making up of Girdles, Belts, Hangers, and other Wares for Mens wearing, or for War-Service, with Braſs Buckles.

Whitehall, Feb. 18. A Proclamation for Priſing of Wine.

Whitehall, March 20. A Proclamation againſt making Collections without Licence under the Great Seal.

Whitehall, March 22. A Proclamation concerning the Priſing of *French* Wines.

Hiſtorical Collections,

for the Year, 1633.

The Arch-Biſhop of Canterburies *Diary for the Year,* 1633.

Arch-Biſhop of *Canterbury's* Diary.

ON the 13*th* of *May*, being *Munday*, I ſet out of *London* to attend King *Charles* into *Scotland*.

May the 24*th* the King was to enter into *York* in State.

June 6. I came to *Barwick*; that Night I Dreamed, *that* K. B. *ſent to me in* Weſtminſter-*Church*, *that he was now as deſirous to ſee me as I him*; *and that he was then entring into the Church: I went with hope, but met another in the middle of the Church, who ſeemed to know the buſineſs, and laughed, but* K. B. *was not there.*

June 8. *Whitſon-Eve* I received Letters from *K. B.* unalterable, *&c.* by this if I return, I ſhall ſee how true or falſe my Dream is, *&c.*

Saturday, *June* 15. I was ſworn Councellor of *Scotland.*

June 18. *Tueſday* after *Trinity Sunday* K. *Charles* Crowned at *Holy-rood Church* in *Edenburgh*. I never ſaw more expreſſions of Joy than were after it, *&c.*

June 19. *Wedneſday*, I received two Letters from *K. B.* No Changling, *&c.* within three hours after, other Letters from *K. B.* believe all that I ſay, *&c.*

June 29. *Friday*, Letters from *K. B.* no *D.* true, if not to my contentment, *&c.* *June* 30. I Preached to his Majeſty in the Chappel in *Haly-rood-Houſe* at *Edenburgh.*

July 1. *Monday* I went over *Forth*, to *Brunt Iſland.*

July 2. *Tueſday* to St. *Andrews.*

July 3. *Wedneſday* over *Tay* to *Dundee.*

July 4. *Thurſday* to *Faulkland.*

July 7. *Sunday* to St. *Johnſton.*

July 8. *Munday* to *Dumblane*, and *Striveling*, my dangerous and cruel Journey, croſſing part of the *Highlands* by Coach, which was a wonder there.

July 9. *Tueſday* to *Linlithgow*, and ſo to *Edenburgh.*

July 10. *Wedneſday*, his Majeſties dangerous paſſage from *Brunt-Iſland* to *Edenburgh.*

July 11. *Thurſday* I began my Journey from *Edenburgh* towards *London.*

July 13. *Friday*, that night at *Innerweek*; I dreamed that *L. L.* came and offered to ſit above me at the *Council Table*, and that *L. H.* came in and placed him there.

Id eſt Biſhop of *Lincoln.*

Id eſt Lord of *Holland.*

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July 20. *Saturday* the King came from *Scotland* to *Greenwich*, having come Poſt from *Barwick* in four days, (being 260 Miles).

Friday, *July* 26. I came to my Houſe at *Fulham*, from *Scotland*.

July 28. *Sunday*, *K. B.* and I met, all the ſtrange diſcourſes miſtaken, I went away much troubled, but all ſetled again well, *Auguſt* 3. *Saturday* following.

Sunday, *Auguſt* 4. news came to Court of the Lord Arch-Biſhop of *Canterburies* death, and the King reſolved preſently to give it me, which he did *Auguſt* 6.

Auguſt 4. That very Morning at *Greenwich*, there came one to me ſeriouſly that vowed ability to perform it, and offered me to be a *Cardinal*: I went preſently to the King, and acquainted him both with the thing and Perſon.

Auguſt 7. *Wedneſday*, abſolute ſettlement between me and *K. B.* after I had made my caſe known at large. God bleſs me in it.

Auguſt. 14. *Wedneſday*, a report brought me that I was poyſoned.

Auguſt 17. *Saturday* I had a ſerious offer made me again to be a *Cardinal*; I was then from Court, but ſo ſoon as I came thither (which was *Wedneſday*, *Auguſt* 21.) I acquainted his Majeſty with it: but my Anſwer again was, that ſomewhat dwelt within me, which would not ſuffer that till *Rome* were other than it is.

Auguſt 25. *Sunday*, my Election to the *Arch-biſhoprick* was returned to the King, then being at *Woodſtock*.

Septemter 19. I was tranſlated to the *Arch-biſhoprick* of *Canterbury*; The Lord make me able, *&c.*

The day before, when I firſt went to *Lambeth*, my Coach, Horſes and Men ſunk to the bottom of the *Thames* in the *Ferry-Boat*, which was overladen, but I praiſe God for it, I loſt neither Man nor Horſe.

November 13. *Wedneſday*, *Richard Boyer*, who had formerly named himſelf *Lodowick*, was brought into the *Starr-Chamber*, for moſt groſly miſuſing me, and accuſing me of no leſs than *Treaſon*, &c. He had broke Priſon for *Felony* when he did this. His Cenſure is upon Record, and God forgive him. About the beginning of this Month the *Lady Davis* Propheſied againſt me, that I ſhould very few days outlive the fifth of *November*. And a little after that one *Green* came into the Court at St. *James's*, with a great Sword by his ſide, ſwearing the King ſhould do him juſtice againſt me, or he would take another courſe with me. All the wrong I ever did this man was, that being a poor Printer, I procured him of the Company of the Stationers five pounds a Year during his Life. God preſerve me, and forgive him: he was committed to *Newgate*.

Sunday, *November* 24. in the afternoon I Chriſtned King *Charles* his ſecond Son, *James* Duke of *York*, at St. *James's*.

9 *Caroli.*

A thankſgiving for the ſafe Delivery of the Queen's Majeſty, and happy Birth of the Duke of *York*.

MOST Gracious God, and Loving Father, we give thee all humble and hearty Thanks, for thy great Mercy, in bleſſing the Queens Majeſty with a happy Deliverance, in, and from the great Pains and Peril of Child-birth. We humbly beſeech thee to continue and increaſe this Bleſſing, that She may happily overcome this, and all other Dangers. That His Moſt Gracious Majeſty may long have joy in Her moſt happy Life; and both of them Comfort in the Royal Prince Charles, *and the reſt of their Princely iſſue, particularly in the Newborn Prince the Duke of* York. *That they may all prove a Healthful, Hopeful and a Succeſsful Poſterity; that both Church and Kingdom may have fulneſs of Joy in them. That ſo their Majeſties Royal Perſons may be filled with Honours in this Life, and with Eternal Happineſs in the Life to come. And this even for Jeſus Chriſt his ſake, our only Saviour and Redeemer.* Amen.

This Year His Majeſty being reſolved on a Progreſs into *Scotland*, on the 4*th* of *May* iſſued out a Proclamation to this Effect.

Concerning the Prizes of Victuals within the Verge of His Majeſties Houſhold.

'THat whereas in His Majeſties Progreſs through divers parts 'of the Realm, neceſſity requires, That a great number of 'His Majeſties Subjects, not only Noblemen, but others, attending 'his Service, and others for their neceſſary Occaſions, ſhould fre- 'quent thoſe places, where the King in His Royal Perſon ſhall reſort; 'and it is therefore requiſite that Competent Proviſions be made, 'that they be not expoſed to the intolerable Avarice of Bakers, Brew- 'ers, Inholders, Butchers, and Sellers of Victuals, who do ordinarily 'unlawfully exact and demand unreaſonable and extream Prizes for 'Victuals, Horſe-meat, Lodging, *&c.* above the Prizes they were 'ſold at before the Kings coming into thoſe Parts: Therefore His 'Majeſty doth Publiſh and Command, that all Perſons do keep ſuch 'Prizes as are and ſhall be Aſſeſſed and Rated by the Clerk of the 'Market of the Kings Houſhold, or his Lawful Deputy, within and 'without their Liberties, upon the preſentment of Jurors, by ver- 'tue of his Office Sworn and Charged from time to time.

May the 5*th*. A Proclamation for well ordering His Majeſties Court and Train in His Journey to *Scotland*, and return thence.

'THe Kings Majeſty having taken into his Princely Conſide- 'ration ſome Incoveniences, which may fall out and happen 'in His intended Journey towards His Kingdom of *Scotland*, if pre- 'ſent care be not had to prevent the ſame, hath thought fit, by Advice 'of His Privy Council to publiſh and declare, That his Royal Plea- 'ſure and Command is, that none of his Subjects of what Degree 'or Quality ſoever they be, during the time of His Majeſties go- 'ing and returning in the ſaid Journey, ſhall preſume within the 'Verge of His Majeſties Court, to take up or poſſeſs themſelves of 'any Lodging, of their own private Authority, but ſhall firſt re- 'ceive a Billet from his Majeſties Harbingers, or ſome of them. 'And his Majeſty being graciouſly Pleaſed and providently Careful, 'to prevent ſuch Grievances, which may in this Journey happen

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'to his loving Subjects, doth likewiſe hereby ſtraightly charge and 'command, that none of his Majeſties Servants, nor the Servants of 'any Noblemen, or others whatſoever ſhall in the ſaid Journey 'preſume to take any Cart or Carts, but ſuch as ſhall be delivered 'unto him, or them by ſome of His Majeſties Cart-takers or their 'Deputies: And laſtly, His Majeſty's further Will and Pleaſure is, 'that this His Royal Proclamation and the Directions hereby gi-'ven and Commanded, ſhall likewiſe continue and remain in force 'for His Majeſties Service and the good of his Subjects, in all other 'his Majeſties future Journeys and Progreſſes whatſoever, the due 'obſerving whereof his Majeſty expects from all his Loving Sub-'jects, as they tender His Pleaſure, and will avoid the Contrary at 'their Perils.

May the 13*th*. His Majeſty having appointed the Lord *Cottington*, to Sign all Pacquets, ſet forward from *London*, attended by the Earls of *Northumberland*, *Arundel*, *Pembrook*, *Southampton*, *Holland*, Marqueſs *Hamilton*, and other Nobles and Perſons of Quality. In his Progreſs he ſtept a little out of the way to view a place at *Giddon* near *Stilton* in *Northamptonſhire*, which by the vulgar ſort of People was called a *Proteſtant Nunnery*. When His Majeſty came to that place, he underſtood that it was by the Inſtitution and Appointment of one Mrs. *Mary Farrar* Widow, aged about eighty *years* (who ſaid ſhe bid adiew to all fears and hopes of this World, and only deſired to love God) and none were permitted to reſide in her Houſe and Family, but ſuch as would devote themſelves to that Courſe of Life, which ſhe by her Order had appointed, to frequent Prayers at certain Hours, Morning, Noon, Evening and Night-time; they were to Eat by Meaſure and Drink by Quantity. Within the Chappel was a Rich Altar, Crucifix, Candles of White and Green Wax, and before they went to read Prayers they bowed three times before the Altar, as they went up and came down. Thoſe that entred into that courſe of Life with them, were at liberty to uſe any Vocation within the Houſe, as binding of Books, teaching of Scholars, others ſtudying their Books. Laſtly, the Foundreſs was pleaſed to add this Liberty and Priviledge unto any that entred into that Society, that if they had a mind to Marry, they ſhould with freedom have liberty to depart.

Proteſtant Nunnery.

His Majeſties Geſts were ſetled to certain time and places before he ſet out from *London*, and *Welbeck* in *Nottinghamſhire* being appointed as one Geſt, the King in His Progreſs was Treated there at a Sumptuous Feaſt, by the Earl (ſince Duke of *Newcaſtle*) eſtimated to ſtand the Earl in ſome thouſands of pounds.

After the time that His Majeſty parted from that Noble Earls Treatment, He met with great Reception by the way, and Sumptuous Feaſtings at *York*, where he made ſome ſtay, and at *Raby* Caſtle where Sir *Henry Vane*, His Majeſties late Ambaſſador to the *King* of *Denmark* and *Swedland* nobly entertained His Majeſty. And at *Durham* ſeveral days that Biſhop (Dr. *Morton*) moſt ſumptuouſly entertained his Majeſty; and the King going from thence, to the Town of *Newcaſtle*, that Place abundantly ſhewed their Duty and Affection in a Generous Entertainment of His Majeſty.

After

9 *Caroli.*

After His Majeſty parted from *Newcaſtle*, he haſtened to *Barwick*, where Mr. *Widdrington* of *Grayes-Inne*, Recorder of that *Town*, on the Second day of *June* entertained His Majeſty in His Paſſage through that Place towards *Edenburgh* with this enſuing Speech.

June the 2 Mr. *Widdringtons* Speech to the King at *Barwick*, in His Progreſs to *Scotland*. being Recorder of that Town.

Moſt Gracious and Dread Sovereign.

'WHat the Noiſe of uſeleſs aud obſolete Canons, what theſe 'ſtrong yet deſolate Walls, what the Reliques of ſome-'times warlike Souldiers, what the Ruines of a poor, yet ancient 'Burrough, what all thoſe would ſay, (if they could ſay any thing) 'and what all we your Majeſties humbleſt and meaneſt Subjects de-'ſire to expreſs with an unanimous and chearful Acclamation, is 'no more but this, That your Majeſties Preſence doth now bring as 'much Joy and Comfort to us all, as ever the loſs of this Town 'of *Barwick* brought ſorrow to the *Engliſh* or *Scottiſh* Nation.

'It were unſeaſonable for us to repreſent to Your Majeſties view, 'the Gloomy Cloud of our Preſſures and wants: No I need not do it; 'The Mite we are to caſt into Your Majeſties *Treaſury* will quickly 'tell you them; We cannot do it, for that Cloud is ſuddenly va-'niſhed by the Radiant Beams of Your Sun-like Appearance. By 'whoſe approach theſe Rufty Ordnances, theſe Solitary Walls, 'theſe Souldiers, this now deſpicable *Town*, have all inſtantly re-'ceived their former Life, Luſter, and Vigour; and hence we are 'induced to think, that this Year (being the Year of Your Maje-'ſties moſt Royal Progreſs) is likewiſe the Year dreamed on by '*Plato*, wherein all things were to return to their former Life, 'Splendor and Excellency.

'You have in Your Majeſties Eye the Repreſentative Body of the 'poor Town of *Barwick*, yet a Town (for *fuimus Troes*) that 'hath been the Delight, nay the Ranſome of Kings, a true *Helena*, 'for which many Bloody Battels have been fought, loſt, and re-'gained ſeveral times, within the compaſs of one Century of 'Years. A Town, the ſtrongeſt Fortreſs of both Your Majeſties 'moſt flouriſhing Kingdoms, yet upon each diſcord and diſſention, 'banded as a Ball between them; if held in the Hands of one, 'then toſſed by the other Kingdom, a Ball that never found reſt 'until the happy Union.

'A Town at this day as uſeleſs, as Armes in time of Peace, yet 'may ſerve for Your Majeſty to caſt your Eye upon, as a little Map 'of both Your great Kingdoms, as a participating of the nature of 'both, yet doubtful whether moſt beyond the ordinary Limits of 'the one, and without the Juriſdiction of the other Kingdom, but 'conſpicuous in the Eye of both.

'A Town neither wholly regulated by *Engliſh* or *Scottiſh* Laws, 'but by Cuſtoms and Uſages in ſome things different from both; 'yet rather inclined to *Engliſh* Laws, and more affecting *Scottiſh* 'Faſhions and Language, as being oftner ſaluted by the Reſcripts of 'the one, and ſeeing and hearing oftner the other.

'Although now *Engliſh*, and ſo hath continued ſince the time of 'King *Edw.* 4., yet ſuch is our diſtance from the Center of the 'Kingdom, that the Lines of thoſe Felicities now enjoyed by that 'Kingdom, by Your Majeſties happy Government and Reſidence 'there, do not ſo happily Concenter in us.

'We

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'We will know (as indeed who knoweth not) that Royal 'Blood running in Your Majeſties Veins, to be Extracted from the 'moſt Renowned Kings of both theſe Kingdoms, and by thoſe 'Kings, (Moſt Dread Sovereign) eſpecially by Your Royal Father 'of ever Bleſſed and Happy Memory, hath this Town, though in 'the Skirts of either Kingdom, been richly Imbroidered, with ma-'ny Priviledges, Franchiſes, and Immunities: And therefore we 'doubt not but Your Majeſty, in whom each Man may behold the 'Worth of all Your Anceſtors, You being no leſs Rightful Inheri-'tor of their Vertues, than of their Crowns, will gratiouſly main-'tain what they have moſt benignly granted.

'But few words are beſt to be uſed to Kings, eſpecially when 'they are ſpoken by an unskilful Orator. We dare boldly ſay, '(Moſt Gracious and Mighty King) that our Hearts are better than 'our Tongues, being moſt of all unhappy in this, that they are 'linked with ſo bad Expreſſions.

'Yet we hope that Your Majeſty may ſee in our Countenances, 'what you hear not ſo fully expreſſed by our Tongues; We humbly 'crave Your free Pardon of the one, and Your Gracious Interpreta-'tion of the other.

'Your Majeſty is now going to place a *Diadem* upon Your moſt 'Sacred Head, which God and Your own Right have long ſince 'given into Your Hands.

'Our humble Prayers are, That not only that, but all Your other 'Crowns, may be unto Your Majeſty Crowns of Roſes, without 'the mixture of any Thorns.

'And we moſt affectionately wiſh, That the Throne of King '*Charles* the Great, and wiſe Son of our Britiſh *Solomon*, may be 'like that of King *David*, the Father of *Solomon*, eſtabliſhed before 'the Lord for ever.

The King took his Journey from *Barwick*, upon the 12 day of *June* in the ſaid Year, attended with his Retinue the *Engliſh* Nobility and others, and was met at the bound Road, near *Barwick*, by the moſt part of the Nobility of *Scotland*, and by the Gentry of the Sheriffdomes of *Barwick*, *Tiveodale*, and the 3 *Lothians*, and many more of the Gentry of *Scotland* in very Noble Equipage, and well Mounted, amongſt whom were a Troop of 600 of the Mers or *Barwick-ſhire* Gentlemen relating to, or dependants upon, the Earls of *Homes* in Green Satten Dublets, and White Tafity Scarves. That night he lay at *Dunglas* (an Houſe belonging to the Earls of *Home*) ſerved by his own Furniture and Proviſions, in reſpect there was none at that time to repreſent the Earl of *Home*, there being pretentions for the ſaid Eſtate depending betwixt the Heir-male of the ſaid Family, and the Heirs of the Line.

Upon *Thurſday* the 13. of *June* after Breakfaſt, he came from *Dunglas* to *Seaton*, an Houſe of the Earl of *Wintons*, where he was nobly entertained by the Earl, and ſtay'd there till *Friday* the 14. of *June* after Dinner.

From thence he went to *Dalkeith*, a Houſe then belonging to the Earl of *Morton*, Lord High Treaſurer of *Scotland*, where he was alſo ſumptuouſly entertained by his Lordſhip that night, and the next day at Dinner.

June

9 *Caroli.*

June the 15. on *Saturday* in the afternoon His Majeſty came from *Dalkeith*, towards *Edenburgh*, (five Miles diſtant) and entred at the *Weſt Port*, where he was Honourably received, the Keys delivered, and His Majeſty attended by the Lord *Provoſt*, *Bailiffs* and *Aldermen* in their Scarlet Robes, others of the Council and Grave Men of the City in Black Gowns lined with Velvet, and Young Men ſaid to be the number of 13 Score, cloathed in White Satten Dublets, Black Velvet Breeches, and White Silk Stockins, bearing rich Partizans and other Arms, the Train-bands of the City being ranged on each ſide the Streets through which His Majeſty paſſed. There were great Acclamations of the People, being entertained with elegant Speeches at 5 ſeveral Pageants, *viz.* 1*ſt.* At the ſaid *Weſt Port*, 2 at the *Weſt-bow*, 3 at the Old *Tolbooth*, the 4 at the *Trone*, and the 5 at the nether *Bow*. The Ceremony of that Pageant at the *Tolbooth*, there was repreſented in Effigie the whole Kings in order that had Reigned in *Scotland* ſince the Monarchy of that Kingdom, even from *Fergus* the firſt, who himſelf was repreſented therein, making a Prophetical Oration of all his Succeſſors till *Charles* the firſt the 108 King, and added, That as Heaven had propitiouſly maintained the Succeſſive Sovereignty from him to *Charles*, ſo he predicted, That as many ſhould ſucceed his Succeſſors, as he had preceding Monarchs of this Kingdom; beſides, there were ſeveral witty Speeches in Verſe. 1*ſt.* Called the Speech of *Caledonia*, repreſenting the Kingdom. 2*d.* The Song of the *Muſes* at *Parnaſſus*. 3*d.* The Speeches at the *Horoſcopal Pageant*, by the Planets, where firſt *Endymion* ſpeaks, then *Saturn*, *Jove*, *Mars*, *Sun*, *Venus*, *Mercury*, *Moon*, and laſt again *Endymion* cloſes the Ceremony, all printed amongſt the Poems of Mr. *William Drumond* of *Haythernden*.

It's here obſerved, That the whole *Scotch* Nobility did ride down the Streets according to their Degrees in Order of Parliament, next to them the Houds, the Sword, Scepter, and Crown; and immediately after the Kings Perſon; And the *Engliſh* Nobility according to their ſeveral Ranks and Degrees, and His Majeſty lighting at the *Abbey* Church-door, where Mr. *Andrew Ramſey*, a Miniſter of the City, made a very learned Oration to him in *Latin*. And from thence he went to his Pallace of *Hallyrood-houſe*,

June 16 being *Sunday*, he heard a Sermon at the Chappel *Royal*.

June 17 it being *Monday*, after Dinner His Majeſty publickly created the Earl of *Angus* Marqueſs of *Douglas*, and Chancellor *Hay* Earl of *Kinnoul*, and preſently after went in his Coach to the Caſtle of *Edenburgh*, and there was worthily entertained that night by the Earl of *Marr* Governour of the Caſtle.

The 18 of *June*, being *Tueſday*, was the Kings *Coronation* day, where all his Noble Officers of State attended the Kings Majeſty in their Robes from the *Caſtle* to the *Abbey* Church, according to their Degrees, and the Honours Veſt, Sword, Scepter, and Crown carried after the accuſtomed manner, lighting at the Church-door, and aſſuming their reſpective Places, a Sermon was Preached by *David Lindſey* then Biſhop of *Brechin* upon theſe words, 1 *Kings* 1. 39. *And all the People ſaid, God ſave King* Solomon.

After

An. 1633. After Sermon they proceeded to the Coronation, attended with all the uſual Ceremonies thereof. It was obſerved, that Dr. *Lawd*, then Biſhop of *London*, who attended the King, (being a ſtranger) was high in his carriage, taking upon him the order and managing of the Ceremonies and Coronation, and for an Inſtance, *Spotſwood* Archbiſhop of St. *Andrews* being placed at the Kings Right Hand, and *Lindſey* then Archbiſhop of *Glaſcow* at his Left, Biſhop *Lawd* took *Glaſcow*, and thruſt him from the King with theſe words; *Are you a Church-man and wants the Coat of your Order*, (which was an Imbroidered Coat, and that he ſcrupled to wear being a moderate Church-man) and in place of him put in the Biſhop of *Roſſe* at the Kings Left Hand.

At this time the Lords and Nobles of *Scotland*, ſeemed to ſtand well and equally in the Kings Favour, till after the Parliament (eſpecially the Duke of *Lenox*, and the Marqueſs of *Hamilton.*)

June the 19 *Wedneſday* was a day of Reſt, the Bands of the City diſciplined in the Palace-yard before the King and His Nobles.

June the 20 *Thurſday* the Parliament rode in order from the Kings *Pallace* to the *Parliament-houſe*, the Honours carried, and all Ceremonies obſerved, as was accuſtomed. *Spotſwood* Archbiſhop of St. *Andrews* Preached; the King made his Speech, and the Parliament proceeded to chooſe the Lords and Members of the Articles, according to their uſual manner; the Biſhops being to Nominate the Temporal Lords, there were elected 3 Lords ſuſpected to be Popiſh. Theſe Lords and Members of the *Articles* conſiſting of 8 of the Clergy, 8 of the Nobility, and 8 Barons, and 8 Burgeſſes. The manner of Election was thus:

1. The Noblemen elect the *Clergy.*
2. The Clergy elect and choſe the *Noblemen.*
3. The Elect Clergy and Noblemen choſe the *Barons.*
4. The Elect Clergy, Nobility and Barons, choſe the *Burgeſſes.*

Beſides the Officers of *State* make up that Body which deviſe, contrive, and form all Acts that are to paſs in Parliament; and being ſo preſented, are paſſed without difficulty. Theſe Members of the Articles convened daily, till the 28 day of *June*, and in the general, what the King propoſed was granted: And on *Friday* the 28 of *June* the whole Parliament met, and paſſed the ſeveral Acts, which the *Articles* had ſo prepared, being 31 publick printed Acts, beſides 176 private Acts not printed, ſuch as reſpect particular Perſons and Things are promiſcuouſly titled *Acts*, *Proteſtations*, *Ratifications*, *Commiſſions*, &c.

Vide a Liſt of Printed Acts.

The 1 and 21 Acts gave the King very great Sums of Money, *viz.* The one a Subſidy or Taxation of *Thirty Shillings* of every Pound Land of old Extent for 6 years to be paid at every Term of *Martinmas*, and alſo the 16 Penny of all Annual Rents, or Intereſt of Money, (the ſame being then at 10 *l. per Cent.*) and that for the like ſpace of 6 years to be paid Termly at *Whitſontide* and *Martinmas* equally during that time.

The other *Act* reduced the Intereſt of 10 *l. per Cent.* to 8 *l.* to be obſerved as a Law amongſt the Lieges, but in conſideration thereof the King was to have 2 *l.* out of the 10 *l.* formerly paid, and that for the ſpace of three years; all theſe made a very great Taxation.

In

In this *Parliament* there was little or no difference, except in what related to two *Acts*, *viz.* 3*d* and 4*th*, the one entituled an *Act anent His Majeſties Royal Prerogative, and Apparrel of Kirkemen.* The other an *Act of Ratification of the Acts touching Religion.* 9 *Caroli.* *Vide* the Acts.

As to the former of theſe *Acts*, ſeveral Noblemen and others were not pleaſed to have the Apparel of *Kirkemen* joyned with the Prerogative, ſuſpecting the *Surplice* to be intended; and the King being asked that Queſtion, made no anſwer. But this Circumſtance was obſerved of him, that he took a Liſt of the whole Members out of his Pocket, and ſaid, Gentlemen, *I have all your Names here, and I'le know who will do me ſervice, and who will not, this day.* However about 13 Noblemen, and as many *Barons* and *Burgeſſes* declared, That they agreed to the Act for His Majeſties Prerogative, but diſſented from that part of it, as to the Apparel of *Kirkemen.*

The King ſaid he would have no diſtinction, but commanded them to ſay *I*, or *no.* Upon which thoſe Lords and others before mentioned declared themſelves particularly, that they did diſſent from that *Act* as it was conceived; as to the other *Act* annent Religion, the ſame diſſenting Lords and Gentlemen declared, That they agreed to the Ratification of the Laws annent the true Proteſtant Religion, as it was eſtabliſhed in Doctrine, and an Act of this nature paſſed in King *James* the *6th* of his Reign, His Majeſties Royal Father, when *Archbiſhops*, *Biſhops*, &c. were oppoſed, but now they were governing and included, therefore they diſſented from that part; and being again commanded to ſay *I*, or *no*, the ſaid Nobles and others diſſented as formerly.

Amongſt the *Peers* that diſſented were *John* Earl of *Rothes*, *John* Earl of *Caſſills*, *William* Earl of *Lothian*, and the Lords *Lindſey*, *Porpliehin*, *Sinclar*, *Balmerino*, *Cooper*, *Teſter*, and 4 more. The Paſſing of the Act concerning Eccleſiaſtical Habits, did much perplex the Diſſenting Lords and others, which occaſioned ſome of them to Devulge in Writing a Paper reflecting upon His Majeſty, (adjudged afterwards to be a Libel) wherein was contained this Reflection, how grievous a thing it was for a King in that place, by making of the Subjects Votes, to Over-awe his Parliament: And that the ſame was a breach of Priviledge, *&c.* This Writing, as afterwards appeared, was Drawn by one *William Hagg*, who fled for it, but being found in the Cuſtody of the Lord *Balmerino*, that Lord, by the inſtigation of Archbiſhop *Spotſwood*, and others of the Privy Council, was in a Court of his *Peers* found guilty of concealing *Treaſon*, and therefore condemned to loſe his Head, but afterwards pardoned by His Majeſty.

The Parliament being Diſſolved upon *Friday* the ſaid 28. day of *June*, the King ſtayed *Saturday* and *Sunday*, and obſerved the Diſſenters with an unfavourable Aſpect.

Upon *Monday* the 1. of *July*, the King takes his Progreſs to his *Pallace* at *Linlithgowe*. *Tueſday* the 2. to *Strivling*, being preſented with Plate by each *Provoſt*, one of whom being a Diſſenter, was not admitted to Kiſs his Hand.

An. 1633. Upon *Wedneſday* the 3*d* he went to *Dumfermlin*, and *Thurſday* the 4*th* to *Falkland*. Note, that the Nobility and Gentry of *Fiffe* had prepared to give a Noble Reception to His Majeſty, but many of them being Diſſenters, His Majeſty was pleaſed to take another way, and avoided them.

Friday and *Saturday* the 6. and 7. of *July*, the King hunted in his Park of *Falkland*, and there every *Sunday*, *Maxwell* Biſhop of *Roſſe* Preached before His Majeſty.

Munday the 8. the King went to St. *Johnſton*, and was nobly entertained by the Earl of *Kinoul* (then Lord *High-Chancellor*) that night at Supper, and the next day at Dinner, and returned from *Scoon* to *Falkland*.

Wedneſday the 10, the King with his Nobles and Retinue, took Boat at *Brunt-Iſland* to come to *Leith* (being 7 Miles over) in a calm Seaſon about the mid day. But preſently after the Boats put to Sea, aroſe a violent Storm and Tempeſt, (though none at Land) to the great hazard of His Majeſty, and many others; the King paſſing to a Ship, a Man of War of his in the Road, with much difficulty, weathered it, quit his former Boat, and took the Ship and Boat to *Leith*, and there Landed after great danger; one of the Boats in the Kings Preſence being over-ſet, or turned over, periſhed with the Kings Plate, and near 20 Perſons, of which number were one *Lewis Somervell* and *Alexander Naper*, who had the charge of the Silver Plate and Veſſels, and 3 Perſons were ſaved ſitting upon the Keile coming in to Shoar upmoſt.

11. *Thurſday* the 11 the King ſtaid at his *Pallace* of *Hallyrood-houſe*.

12. Upon *Friday* the 12 he went to *Dalkeith*, where he ſtayed that night.

13. Upon *Saturday* after Dinner, he went to *Seaton-houſe*, ſtayed that night and Sabbath-day.

15. *Munday* after Dinner he went from *Seaton* to *Innerwicke*, an Houſe of *James Maxwell*, after Earl of *Dirlington*, and was richly entertained.

16. *Tueſday* His Majeſty and Train went from *Innerwicke* to *Barwick*, &c.

A Table of the printed Acts *and Laws paſt in this firſt Parliament, of Our Sovereign Lord King* Charles *the Firſt.*

1. ANent the Taxation granted to His Majeſty of Thirty Shillings Termly upon the Pound-land, and the Sixteenth Penny of all Annual Rents, the one for 6 Years, and the other for the ſame Term.

2. Anent the Collecting, and in-bringing of the Taxation, and Relief to Prelates.

3. Anent His Majeſties Royal Prerogative, and Apparel of Kirkmen, Ratification, or the Acts touching Religion.

5. Ratification of the Act of Council, anent the Plantation of Schools.

6. Anent the inverting of Pious Donations.

7. Anent invading of Miniſters.

8. Rati-

9 *Caroli.*

8. Ratification of the Act of Commiſſion, anent the Miniſters Proviſions.
9. The Kings general Revocation.
10. Anent annexation of His Majeſties Property.
11. Act of Diſſolution.
12. Ratification of the Acts of Interruption.
13. Anent Regalaties of Erections.
14. Anent Superiorities of Kirke-lands.
15. Anent His Majeſties Annuity of Tythes.
16. Anent Vaſſals holding *Ward.*
17. Anent the Rate and Price of Tythes.
18. Anent the *Exchequer.*
19. Commiſſion for Valuation of Tythes not valued, rectifying the Valuation of the ſame already made, and other Particulars therein contained.
20. Anent the King his Deſignation of the Names to be inſerted in the Commiſſions anent the Tythes and Laws.
21. Anent the Annual of 8. to be taken of every Hundred in time to come, alennerly ſuſpending the ſame for 3 years, and in the interim, Two of Ten to be paid for the ſaid ſpace to His Majeſty.
22. Anent the Lords of the *Seſſion*, their Taxation of Ten Shillings to be impoſed upon every Pound-land of old Extent.
23. Ratification of the Liberties of the *Colledge* of *Juſtice.*
24. Ratification of the Priviledges of the free Royal Burroughs.
25. Ratification of the Acts made in favour of the Juſtices of Peace, and their Conſtables, and Commiſſion to the Lords of *Secret Council* there-anent.
26. Explanation of the Acts of Parliament made in favour of the Lords of *Seſſion*, anent Twelve Pennies of the Pound to be paid in Decreets given by the Lords hereafter.
27. Act of Pardon to Penal Statutes.
28. Ratification in favour of the Viſcount of *Strivling* of the Infeſtments and Signature granted to him of the Dominions of new *Scotland* and *Canda* in *America*, and Priviledges therein contained, and of the Dignity and Order of *Knight-Baronets*, and Act of *Convention of Eſtates* made there-anent.
29. Act in favour of the Earl of *Morton*, and the Lord *Dalkeith* his Son, and the *Loch* of *Levin*, and preſervation of the Fiſhing thereof.
30. Act anent the *Clan-Greigours.*
31. Act in favour of His Majeſty and Lieges, intitulate, *jure ſalvo cujuſlibet.*

Act 3 anent His Majeſties Royal Prerogative, and Apparel of Kirk-men.

'OUr Sovereign Lord, with advice, conſent, and aſſent of the 'whole Eſtates, acknowledging His Majeſties Sovereign 'Authority, Princely Power, Royal Prerogative and Priviledge of 'his Crown, over all Eſtates, Perſons and Cauſes whatſoever 'within this Kingdom, ratifies and approves the Act of Parliament 'made in the *Year* 1606. anent the *Kings Royal Prerogative*, and

An. 1633.

'perpetually confirms the ſame, for his Highneſs, his Heirs and 'Succeſſors, as amply, abſolutely, and firmly in all reſpects as ever 'any of His Majeſties Royal Progenitors, did poſſeſs and exerciſe 'the ſame; and withal remembering, that in the Act of Parlia-'ment made in the Year 1606. anent the Apparel of Judges, Ma-'giſtrates, and Kirk-men, it was agreed, That what Order ſoever 'His Majeſties Father of Bleſſed Memory, ſhould preſcribe for 'the Apparel of Kirk-men, and ſend in writ to his *Clerk of Regiſter*, 'ſhould be a ſufficient Warrant for inſerting the ſame, in the Books 'of Parliament, to have the ſtrength of any Act thereof, have all 'conſented that the ſame Power ſhall remain what the Perſon of 'Our Sovereign Lord and his Succeſſors that now is, and what 'the ſame Clauſe for execution thereof, as in the ſaid Act con-'tained.

Act 4. Ratification of the Acts touching Religion.

'OUr Sovereign Lord, with advice and conſent of the Eſtates, 'ratifies and approves all and whatſoever Acts and Statutes 'made before anent the Liberty and Freedom of the true Kirk of 'God, and Religion preſently profeſſed within this Realm, and or-'dains the ſame to ſtand in their full Force and Effect, as if they 'were ſpecially mentioned and ſet down herein.

Articles of Inquiry in the Viſitation of the Biſhop of *Wincheſter*. * Dr. *Neal*.

IN the Month of *June* came forth in Print, Articles to be inquired of, by the Church-wardens and Sworn Men within the Dioceſs of *Wincheſter*, in the Primary Viſitation of the Right Reverend Father in God * *Walter* Lord Biſhop of *Wincheſter*, holden in the Year of Our Lord God 1633.

The Oath to be Adminiſtred to the Church-wardens and Sworn Men.

YOu ſhall Swear, That you and every of you, without all Affection, Favour, Hatred, hope of Reward and Gain, or fear of Diſpleaſure or Malice of any Perſon, ſhall Preſent all and every ſuch Perſon and Perſons of or within your Pariſh, who hath committed any Offence, Fault or Crime, or omitted any part of Duty, which be enjoyned to perform: Wherein you ſhall deal uprightly, and according to Truth; neither of Malice Preſenting any contrary to Truth, nor of Corrupt Affection ſparing to Preſent any, and to Conceal the Truth; having in this Action God before your Eyes, with an earneſt Zeal to maintain Truth. and ſuppreſs Vice. So Help you God, and the Contents of this Book.

Firſt, As to the Articles concerning the Church, they are to enquire, Whether they have the Book of Conſtitutions or Canons Eccleſiaſtical, and a Parchment Regiſter-Book, Book of Common-Prayer, and Book of Homilies, *&c.* And whether the Communion-Table be placed in ſuch convenient ſort within the ſaid Chancel or Church, as that the Miniſter may be beſt heard in his Prayer and Adminiſtration.

As

9 *Caroli.*

As to the Articles concerning the Clergy, Whether doth the Miniſter read the Conſtitutions ſet forth by His Majeſty, once every Year?

Whether the Miniſter or Preacher uſe to pray for the Kings Majeſty with his whole Title, as King of Great *Brittain?* And doth he in like manner pray for the Arch-Biſhops and Biſhops? And doth he obſerve all the Orders, Rites, and Ceremonies preſcribed in the Common-Prayer, and Adminiſtring the Sacrament? And whether doth the Miniſter receive the Sacrament, kneeling at the ſame, and Adminiſtreth to none but ſuch as do kneel? as by the 12*th* Canon is directed.

Whether hath the Miniſter admitted to the Communion any notorious Offenders or Schiſmaticks? contrary to the 26*th* and 27*th* Conſtitution. And whether Strangers of any other Pariſh do come often and commonly to your Church, from their own Pariſh Church? contrary to the 28*th* Canon. And whether doth the Miniſter uſe to Sign the Children with the Sign of the Croſs when they are Baptized? And whether is your Miniſter a Licenced Miniſter? if yea, then by whom. And whether doth the Miniſter wear the Surplus whilſt he is ſaying the Publick Prayers, and Adminiſtring the Sacraments? Whether doth the Miniſter Catechize and Inſtruct the Youth of Ignorant Perſons of your Pariſh in the Ten Commandments, *&c.* And whether he doth Solemnize Marriage, the Banes not being 3 ſeveral Sundays and Holidays firſt Publiſhed in time of Divine Service? And whether doth your Miniſter in the Rogation days uſe the Perambulation of the Circuit of the Pariſh? Whether doth the Miniſter every 6 Months Denounce in the Pariſh all ſuch as do perſevere in the Sentence of Excommunication, not ſeeking to be abſolved? or hath he admitted any Excommunicated Perſon into the Church without Certificate of Abſolution? Whether is your Miniſter a favourer of Recuſants, whereby he may be ſuſpected not to be ſincere in Religion? Whether is your Miniſter noted to be an incontinent Perſon, a Frequenter of Taverns, Alehouſes, a Common Gameſter, or a player of Dice, *&c.* With divers other Articles of Enquiry.

The reſt of the Articles are concerning School-maſters, Eccleſiaſtical Officers, Pariſhioners, and others of the Laity. But ſee them more at large in the *Appendix*; as alſo thoſe other Articles which other Biſhops in their ſeveral Dioceſſes did put forth after the firſt Metropolitical Viſitation in the Year 1634. and 1635. which were obſerved to be of a far higher Strain and Enquiry, than theſe of *Wincheſter.*

The

An. 1633.

Paſch. 9 Car.

Star-Chamber.
Bullock vers' *Bullock* & al'.

'THe Defendant, Sir *Edward Bullock*, having a covetous deſire to 'encloſe a certain Common or Waſt-ground in *Weſtbilne* 'Com' *Norfolke*, containing about 1000 Acres, wherein the Plaintiff 'had Common of Paſture, gave out Speeches, That he would 'make the Plaintiff run the Country, if he would not ſell his Lands 'to the ſaid Defendant, for that then he could incloſe the ſaid Com-'mon, and would make him weary of his Leaſes if he would not 'yield them up, and would make him weary of Suits: And in pur-'ſuance thereof, one of the Defendants, who is fled, did ſet open 'a Gate of the Plaintiff, which before was ſtaked up, and broke 'divers Coppies in the Plaintiffs Hedges, ſo that his Cattle went 'into the ſaid Common, and then Sir *Edward* Sued the Plaintiff for 'that Treſpaſs, and forced him to 3 Tryals at Law for 3 Roods of 'Land before he would ſuffer him to enjoy them. And the Plaintiff 'having brought an Action to Tryal againſt Sir *Edward*, wherein 'he uſed the Teſtimony of 4 Witneſſes, the Defendant being diſ-'contented that the Verdict paſſed againſt him; ſwore he would 'be revenged on all the Rogues, the Plaintiffs Witneſſes, who te-'ſtified againſt him. And in purſuance thereof, he afterwards ſent 'for one of them to his Houſe, and kept him in talk, and in the 'mean time cauſed the Defendant *Boydon*, and two other of his

Oppreſſions by Suits.

'Servants, to hew and pull down his Houſe, there being no body 'left therein but a Child, who ran out naked, and the Plaintiff his 'Wife great with Child, and their Children were forced to lye in 'the Streets a night or two, none daring to take them into their hou-'ſes for fear of Sir *Edward*. And they being after received into a 'Houſe by the direction of a Juſtice, the ſaid Sir *Edward* did ſo 'threaten them in whoſe Houſe they were, that they for fear turn-'ed them out of doors, and all the Winter after they lay in an Out-

Pulled down a Witneſſes Houſe in revenge.

'houſe, where no fire could be kept, inſomuch that he, his Wife, 'and one Child periſhed and dyed. And the Defendant meeting 'another of the ſaid Witneſſes, beat her with a ſtick until ſhe was 'black and blew from the Waſt upwards, and not able to put on 'her Cloaths a month after: And threatned another of the Wit-'neſſes to fire his Houſe over his head, or pull it down if he would 'not leave it. And the Defendant *Taſſel*, by colour of a ſuppoſed 'Warrant to Arreſt one *Wales* the Plaintiff, being accompanied 'with two others, did break open his doors, and pull him out of 'his Houſe, and kept him Priſoner 3 hours; and for theſe Offences 'they were all committed to the *Fleet*, Sir *Edward Bullock* fined

100 l. Dam'.

'1000 *l. Boydon* 50 *l.* and *Taſſel* 50 *l. Bullock* to pay the Plaintiff 100 *l.* 'Damage, and out of that he to make ſome reparation to his Chil-'dren whoſe Houſe was pulled down.

The

9 *Caroli.*

The DECREE.

In Camera Stellata coram Concilio ibidem viceſimo tertio die Auguſti Anno Nono Car' Reg' &c.

23 *Auguſt.* 9 *Car.* 1633.

A Sentence in *Star-Chamber*, concerning the Soap-Patent.

'WHereas *His Majeſties Attorney General hath informed this Court, That the Kings moſt Excellent Majeſty, by his Highneſs's Letters Patents under the Great Seal of* England, *bearing Date at* Weſtminſter *the* 17 *day of* December *in the* 7 *Year of His Majeſties Reign for the Reaſons, Cauſes, and Conſiderations in the ſaid Letters Patents expreſſed, did give and grant to* Roger Jones *ſince deceaſed, and to* Andrew Palmer *Eſq; and alſo to Sir* William Ruſſel *Baronet, Sir* Baſile Brooke, *Sir* Richard Weſton, *Sir* Edward Stradling, *Sir* Richard Bettiſon *Knight*, George Gage, Thomas Jones, Beverly Bretton, Thomas Ruſſel, Thomas Jennings, Thomas Hicks, *and* Albertus Belton *Eſq; and to* Robert Carver *Gent. a Patent of Priviledge for the terme of* 14 *Years, for the ſole making of hard Sope and ſoft Sope, with ſuch Materials as by them have been newly Invented, and in ſuch manner as in the ſaid Letters Patents, and other Letters Patents, therein recited appeareth, and for the buying and repairing of Pot-Aſhes, and other Aſhes of Bean-ſtraw, Peaſe-ſtraw, Ferne, Kelpe, and other Vegitables to be found in His Majeſties other Dominions for the making of Soap, not formerly or ordinarily uſed or practiſed by others within the ſaid Realm, Dominions, and Town of* Barwick, *but by them newly invented and deviſed; and alſo of the uſing of the Aſſay-Glaſs for trying of their Lee: In and by which Letters Patents there was careful Proviſion made for the true making of the ſaid Soaps for the uſe of the Kings People, and for the ſearching and making thereof to diſtinguiſh the ſame from other Soaps, and for the ſelling of the ſame at and for reaſonable Prizes, as by the ſaid Letters Patents do at large appear. And His Majeſties ſaid Attorneys further informed this Court, That becauſe His Majeſty in his great Wiſdom foreſaw that without Government of that Trade it would ſoon fall to diſorder; therefore for the better regulating and ordering of the ſaid Works, His Majeſty did by other Letters Patents under the Great Seal of* England, *bearing Date at* Weſtminſter *the* 20 *day of* January, *in the* 17 *Year of His Majeſties Reign, incorporate divers Perſons of Principal Worth and Quality, who had been Adventurers in the ſaid Work by the Name of the Governours Aſſiſtants, and Fellows of the Society of Soap-makers within the City of* Weſtminſter, *in the County of* Middleſex, *to have perpetual Succeſſion, and to them had given and granted divers Powers and Authorities, for the preventing of Frauds and Deceits and other Abuſes in that Trade and Manufactures; and afterwards by His Majeſties ſpecial Commandment ſignified by his Writ in that behalf, the ſaid Grant of Priviledge for making of Soap and Pot-Aſhes, with the Powers and Authorities of the ſaid Patentees named in the ſame Patent of the* 17 *of* December, *granted as aforeſaid, were by them aſſigned unto the ſaid Governours-Aſſiſtants, and Fellows, and their Succeſſors; and in reſpect thereof the ſaid Governours-Aſſiſtants, and Fellows of the ſaid Society, by Indenture*

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'denture bearing Date the 3d day of May in the eighth Year of His 'Majeſties Reign, did covenant, promiſe and agree to and with Our ſaid 'Sovereign Lord the King, his Heirs and Succeſſors, to do and perform 'divers things in that Indenture particularly mentioned, for and concer-'ning the perfecting of the ſaid Work, and the furniſhing of the ſaid 'Kingdom with ſufficient Quantities of ſweet and good Soap, and to 'ſell the ſame at and for reaſonable Prices, not exceeding the Price of 'three pence the Pound, which was a cheaper Rate than other ſweet and 'Merchantable Soap was uſually ſold for. And His Majeſties ſaid At-'torney General further informed this Court, That when His Majeſty 'had provided for the ſufficient quantity and reaſonable Prices of the 'ſaid Soaps, out of his Princely care for the good of his People, fore-'ſeeing that the goodneſs of the ſaid Soaps may ſoon decline and decay, 'unleſs by the continual care and pains of ſome Truſty and Diligent Offi-'cer, a watchful Eye were had to ſearch and try all the Soaps that ſhould 'be made and uttered, to ſee that the ſame were anſwerable in goodneſs 'to the firſt Pattern or Standard; His Majeſty, by other Letters Pa-'tents bearing Date the 8th day of June in the Eighth Year of His 'Majeſties Reign, did ordain, conſtitute and appoint, That for ever 'then after there ſhould be an Office. And did thereby, for him, his 'Heirs and Succeſſors, erect, create, and make an Office to be and 'to be called the Office for keeping the Patterns, and making of the 'Aſſay of Soaps to be made by the ſaid Governour, Aſſiſtants, and Fel-'lows, who ſhall be called the Aſſay-Maſter for Soaps to be made by the 'ſaid Governour, Aſſiſtants, and Fellows, and thereby did appoint in 'what manner the ſaid Officer having firſt taken a Corporal Oath to that 'purpoſe, ſhould execute the ſaid Office without any trouble or charge to His 'Majeſties Subjects which ſhould buy the ſaid Soaps. And His Maje-'ſties ſaid Attorney further informed this Court, That His Majeſty in 'his Royal Care for the Wealth and Proſperity of his loving Subjects, in-'tending to advance the Native Commodities of this Realm, the ſetting 'of his own People on work, and the ſaving of the Expence of the 'Treaſure of this Kingdom, which unthriftily and unneceſſarily was 'ſpent in buying and importing of forrein Materials, for the making of 'Soap from other Kingdoms, to the inriching of them, and the impo-'veriſhing of His Majeſties own Kingdom, to a great yearly Sum, and 'purpoſing to prevent, or ſeverely to puniſh all Frauds or Deceits in the 'making of Soap with Forreign or Unſweet Materials, and the Exceſſive 'Rates in the ſale of Soaps, as formerly it was practiſed by the Sope-'boilers, being no Body-Politique, nor Governed by any good Orders or 'Conſtitutions regulating their Trade, but being a few ſingular Perſons, 'who took the advantage to inrich themſelves to the wrong and prejudice 'of His Majeſty, and his Loving Subjects in general, who had no ordi-'nary means to right themſelves therein, to the end that all his Loving 'Subjects might take notice of this his Princely Care and Providence for 'them herein by his Highneſs's Proclamation, given at the Court at 'Greenwich, the 28th day of June in the ſaid Eighth Year of His 'Majeſties Reign, did ſtraitly charge and command as well the ſaid Gover-'vernour, Aſſiſtants, and Fellows of the ſaid Society, who had former-'ly bound themſelves by Covenant with his Majeſty to a Regularity in 'that behalf, as all others not being of that Society which ſhould then 'after make any Soapes, that they ſhould uſe no other Oyl in making that 'Soap but Oyl-Olive and Rape-Oyl, as had been long ſince decreed by the

'Maior

9 Caroli.

'*Maior and Aldermen of* London, *that by that means the Soap might be* '*Good, Sweet and Serviceable Soap, according to the Patterns delivered.*

After the Kings arrival at *London* from *Scotland*, His Majeſty on the 13*th* of *Auguſt* thought fit to prevent abuſes growing by the unordered Retailing of *Tobacco*, taking notice to his Subjects, that the Plant or Drugg called *Tobacco*, ſcarce known to this Nation in former times, was in this age uſually brought into this Realm in ſmall quantities as Medicine, and ſo uſed, but in proceſs of time to ſatisfie the inordinate Appetite of a great number of Men and Women, it hath been brought in great quantities, and taken for Wantonneſs and Exceſs, and therefore His Majeſty thinks of ſome means for the preventing of the evil conſequence of this immoderate uſe thereof; is therefore reſolved to reduce the Vending, Selling and Uttering of *Tobacco* by Retail into ſome good Order, and to that purpoſe gives ſeveral Rules and Directions in this Proclamation, that none do ſell the ſame, but ſuch as ſhall receive Licence.

Oatlands Auguſt. 22.

Alſo at the ſame time His Majeſty took care for the Uſe of the Bow and the Pike together in Military Diſcipline, giving notice to the People, That in former times Bowes and Arrowes have been found ſerviceable Weapons for War, whereby great and victorious Conqueſts have been gotten. By ſundry Statutes, the uſe thereof hath been enjoyned, which Statutes are ſtill in Force; the King expecting that his Subjects conform themſelves thereunto, knowing the excerciſe of ſhooting to be a means to preſerve Health, Strength, and Agility of Body; the King hath therefore under the *Great Seal*, Authorized *William Nead*, an antient *Archer*, who hath preſented to the King and Council a War-like Invention with the Uſe of the *Bow* and *Pike* together, Requiring that the Trained Bands be Inſtructed by the ſaid *Nead*.

In the beginning of *October* there were complaints made to the Council concerning *Ales* and *Revels* upon the Lord's Day in *Somerſetſhire*, which gave occaſion to arraign an Order made by the Lord Chief Juſtice *Richardſon* and Baron *Denham* in their Circuits in that County. which Order was to this purpoſe,

An Order to ſuppreſs Ales and Revels in *Somerſetſhire*.

'WHereas divers Orders have been made heretofore by the 'Judges of *Aſſize*, for the ſuppreſſing of all *Ales* and *Re-* 'vels, the ſame Order is now confirmed at the *Aſſizes*, and again or- 'dered by the Court in regard of the Infinite Number of Inconveni- 'ences, daily ariſing by means of *Revels*, that ſuch *Revels*, *Church-* '*Ales*, *Clerk-Ales*, and all other Publick *Ales* be henceforth utterly 'ſuppreſſed, and to the end this may be obſerved, it is further Or- 'dered that the Clerk of the *Aſſizes* ſhall leave Copies hereof, with 'the Miniſter of every Pariſh, within his ſeveral Hundred, and ſhall 'give a Note under his Hand, that he ſhall Publiſh it yearly within 'the Pariſh the firſt Sunday in *February*, and likewiſe the two Sun- 'days before *Eaſter* yearly.

The Arch-Biſhop of *Canterbury* hearing of this Proceeding of the Judges in Church Affairs, and impoſing upon the Miniſters to Pub-

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liſh their Order in the Pariſh Church without the Conſent of the Biſhop of that Dioceſs, complained thereof to the King, and the Chief Juſtice was Commanded to attend the Board, where after the Arch-Biſhop had made his Complaint againſt the Lord Chief Juſtice, he was Commanded to Revoke the former Order made at the *Aſſizes* againſt *Revels*, &c.

The Chief Juſtice Replied, that the *Order* was made at the Requeſt of the Juſtices of the Peace in the County, with the General Conſent of the whole Bench, and upon view of divers antient Preſidents in that kind; but nevertheſs he was Commanded to Revoke his Order.

Upon which Occaſion the Arch-Biſhop of *Canterbury*, on the 4*th* of *October* writ a Letter to the Biſhop of *Bathe* and *Wells* concerning the ſaid *Revels*, to this Effect.

A Letter from the Biſhop of *Canterbury* to the Biſhop of *Bath* and *Wells* about Wakes and Revels.

THat there hath been of late ſome Noiſe in Somerſetſhire *about the Feaſts of the Dedications of Churches, commonly called the Wakes; and it ſeems the* Judges of Aſſize *formerly made an Order to prohibit them, and cauſed it to be Publiſhed in ſome, or moſt of the Churches; thereby the Miniſter,* without my Lord the Biſhop's Conſent *or Privity, the pretence of this hath been, that ſome diſorders derogatory from Gods Service, and the Government of the Common wealth are committed at thoſe times: by which Argument, any thing that is abuſed may quite be taken away. It ſeems there hath been ſome heat ſtruck in the Country about this, by the carriage of the Lord Chief Juſtice* Richardſon, *at the two laſt* Aſſizes, *eſpecially the laſt, with which His Majeſty is not well pleaſed. And for the preventing of Outrages, or Diſorders, at thoſe Feaſts, no man can be more careful than his Majeſty; but he conceives, and that very rightly, that all theſe may and ought to be prevented by the Care of the Juſtices of Peace, and leave the Feaſts themſelves to be kept, for the Neighbourly meeting, and Recreation of the People, of which he would not have them debarred under any frivolous pretences. And further, His Majeſty hath been lately informed by men of good Place in that County, that the Humouriſts increaſe much in thoſe Parts, and unites themſelves by banding againſt the Feaſts; which courſe, as His Majeſty no way likes, ſo he hath been informed alſo for this laſt Year, ſince warning was given, there have not been any noted Diſorders at any of thoſe Feaſts kept in thoſe Parts; yet for His better ſatisfaction, He hath Commanded me to require you to inform your ſelf, and give a ſpeedy account how theſe Feaſts have been ordered,* &c.

The Lord Chief Juſtice *Richardſon* revokes his Orders about Ales and Revels.

THe Lord Chief Juſtice *Richardſon* after his Reproof at the *Council Table*, did at the next *Aſſizes* inform the Juſtices, Grand Jury, and Country, that thoſe Good Orders made by him and his Brother *Denham* for ſuppreſſing unruly *Wakes* and *Revels*, wherein he thought he had done God, the King, and the Country good Service, are to be revoked, and that ſome ill-affected Perſons had miſinformed His Majeſty concerning this Order, who had given him expreſs Command to reverſe it, being not made by himſelf alone, but with the joint conſent of the whole Bench; ſo he declared to the Bench, that in purſuance of Command he did as much as in him lay revoke the ſaid Order, and cauſed the Clerk of the *Aſſizes* to enter the Order verbatim, reciting former Orders made upon

upon that occaſion, and declared them to be void and null, and that all perſons may freely uſe Recreations at ſuch meetings. 9. *Caroli.*

The *Juſtices of Peace* being troubled at the Revocation of theſe Orders, drew up a Petition to the King ſhewing the great Inconveniences that would befall the County if theſe Meetings and Aſſemblies of Church-Ales, Bid-Ales and Clerk-Ales, condemned by the Laws ſhould now be ſet up again: which Petition was Subſcribed by *John* Lord *Paulet*, Sir *William Portman*, Sir *John Stowell*, Sir *Ralph Hopton*, Sir *Francis Popham*, Sir *Edward Rodney*, Sir *Francis Doddington*, Sir. *Jo. Horner*, *Edward Paulet*, *William Baſſet*, *George Speke*, *John Windham*, *Thomas Lutterell*, *William Walrone*, and divers others, but before this Petition was delivered to the King, it was prevented by the coming forth of the Kings Declaration concerning Lawful Sports, His Majeſty giving this enſuing Warrant for the ſame.

The Juſtices of Peace troubled at the Revocation.

Charles Rex,

Canterbury, *ſee that our Declaration concerning Recreations on the Lords Day after Evening Prayer, be Printed:* And accordingly on the 18*th* of *October* this Year it came forth in Print, and was to this Effect.

That King *James* of Bleſſed Memory, in his return from *Scotland*, coming through *Lancaſhire*, found that his Subjects were debarred from Lawful Recreations, upon *Sundays* after Evening Prayers ended, and upon Holy days. And he prudently conſidered, that if theſe times were taken from them, the meaner Sort, who labour hard all the Week, ſhould have no Recreations at all, to refreſh their Spirits. And after His return, He further ſaw, that His Loyal Subjects in all other parts of His Kingdom, did ſuffer in the ſame kind, though perhaps not in the ſame Degree: and did therefore in His Princely Wiſdom, publiſh a Declaration to all his Loving Subjects, concerning Lawful Sports to be Uſed at ſuch times, which was Printed and Publiſhed by His Royal Commandment in the Year 1618. in the Tenor which hereafter followeth.

The Kings Majeſties Declaration to his Subjects concerning Lawful Sports to be Uſed, iſſued forth the 18*th* of *October* 1633.

'WHereas, upon His Majeſties return the laſt Year out of '*Scotland*, he did publiſh his Pleaſure, touching the Re-'creations of His People in thoſe Parts, under his Hand. For ſome 'Cauſes Him thereunto moving, hath thought good to Command 'theſe His Directions then given in *Lancaſhire*, with a few words 'thereunto added, and moſt appliable to theſe parts of the *Realmes*, 'to be publiſhed to all his Subjects.

'Whereas he did juſtly in his Progreſs through *Lancaſhire*, rebuke 'ſome Puritans and Preciſe People, and took order that the like 'unlawful carriage, ſhould not be uſed by any of them hereafter, 'in the prohibiting and unlawful puniſhing of his good People for 'uſing their Lawful Recreations, and Honeſt Exerciſes upon Sun-'days, and other Holy days, after the Afternoon Sermon or Service, 'His Majeſty hath now found that two ſorts of People wherewith 'that Country is much infected, *viz.* Papiſts and Puritans, hath ma-'liciouſly traduced and calumniated thoſe his Juſt and Honourable

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'Proceedings: And therefore leſt his Reputation might upon the 'one ſide (though innocently) have ſome Aſperſion laid upon it, 'and that upon the other Part, his good People in that Country 'be miſled by the miſtaking and miſinterpretation of his meaning, 'His Majeſty hath therefore thought good hereby to clear and 'make his Pleaſure to be manifeſted to all his good People in thoſe 'Parts.

'It is true, that at his firſt entry to this Crown, and Kingdom, 'he was informed, and that too truly, that his County of *Lan-* 'caſhire abounded more in Popiſh Recuſants, than any Countie of 'England, and thus hath ſtill continued ſince, to his great regret, 'with little amendment, ſave that, now of late, in his laſt riding 'through his ſaid Country, hath found both by the Report of the 'Judges, and of the Biſhop of that *Dioceſs*, that there is ſome 'amendment now daily beginning, which is no ſmall contentment 'to His Majeſty.

'The report of this growing amendment amongſt them, made 'His Majeſty the more ſorry, when with his own Ears he heard 'the general Complaint of his People; that they were barred 'from all Lawful Recreations, and Exerciſe upon the Sundays af- 'ter Noon, after the ending of all Divine Service, which cannot 'but produce two Evils: The one the hindring of the Converſi- 'on of many, whom their *Prieſts* will take occaſion hereby to 'vex, perſwading them that no honeſt Mirth or Recreation is Law- 'ful or Tolerable in Religion, which the King profeſſeth, and 'which cannot but breed a great diſcontentment in his Peoples 'hearts, eſpecially of ſuch as are peradventure upon the point of 'turning: The other Inconvenience is, that this Prohibition bar- 'reth the Common and Meaner ſort of People from Uſing ſuch Ex- 'erciſes, as may make their Bodys more able for War, when His 'Majeſty or his Succeſſors, ſhall have occaſion to uſe them. And in 'place thereof ſets up Tipling and filthy Drunkenneſs, and breeds a 'number of idle and diſcontented Speeches in their Ale-houſes. 'For when ſhall the Common-people have leave to exerciſe, if 'not upon the Sundays and Holy-days, ſeeing they muſt apply 'their labour, and win their Living in all Working-days?

'The Kings expreſs pleaſure therefore is, that the Laws of this 'Kingdom, and *Canons* of the Church be as well obſerved in that 'County, as in all other places of this his *Kingdom*. And on the 'other Part, that no Lawful Recreation ſhall be barred to his 'Good People, which ſhall not tend to the Breach of the aforeſaid 'Laws, and Canons of his Church: which to expreſs more Par- 'ticularly, His Majeſties Pleaſure is, That the Biſhops, and all other 'inferior Churchmen, and Church-wardens, ſhall for their Parts 'be Careful and Diligent, both to inſtruct the Ignorant, and con- 'vince and reform them that are miſled in Religion, preſenting 'them that will not Conform themſelves, but obſtinately ſtand out 'to the Judges and Juſtices: whom he likewiſe commands to put 'the Laws in due Execution againſt them.

'His Majeſties Pleaſure likewiſe is, That the Biſhop of that *Dio-* 'ceſs, take the like ſtrict Order with all the Puritanes and Preciſi- 'ans within the ſame, either conſtrain them to Conform them- 'ſelves, or to leave the Country according to the Laws of this

'*Kingdom*,

9 *Caroli.*

'*Kingdom*, and Canons of this Church, and ſo to ſtrike equally on 'both hands, againſt the Contemners of his Authority, and Ad- 'verſaries of the Church; and as for his good Peoples lawful Re- 'creation, his Pleaſure likewiſe is, that after the end of Divine 'Service, his good People be not diſturbed, letted or diſcouraged 'from any Lawful Recreation, ſuch as Dauncing, either Men or Wo- 'men; Archery for Men, Leaping, Vaulting, or any other ſuch 'harmleſs Recreation, nor from having of *May-Games*, *Whitſon-Ales*, 'and *Morice-Dances*, and the ſetting up of *May-Poles*, and other 'Sports therewith uſed: ſo as the ſame be had in due and conve- 'nient time, without impediment or neglect of Divine Service. 'And that Women ſhall have leave to carry Ruſhes to the Church 'for the decoring of it, according to their old Cuſtom; but with- 'all His Majeſty doth here account ſtill as Prohibited all *unlawful* 'Games to be Uſed upon Sundays only, as *Bear* and *Bull-baitings*, '*Interludes* and at all times in the meanner ſort of People by Law 'prohibited, *Bowling*.

'And likewiſe barrs from this Benefit and Liberty, all ſuch 'known Recuſants, either men or women, as will abſtain from 'coming to Church or Divine Service, being therefore Unworthy 'of any Lawful Recreation after the ſaid Service, that will not firſt 'come to the Church, and ſerve God: Prohibiting in like ſort the 'ſaid Recreations to any that, though Conform in Religion, are 'not preſent in the Church at the Service of God, before their 'going to the ſaid Recreations. His Pleaſure likewiſe is, that they 'to whom it belongeth in Office, ſhall preſent and ſharply puniſh 'all ſuch, as in abuſe of this his Liberty, will Uſe theſe Exerciſes 'before the end of all Divine Services for that day. And he doth 'likewiſe ſtraightly Command, that every Perſon ſhall reſort to 'his own Pariſh Church to hear Divine Service, and each Pariſh 'by it ſelf to uſe the ſaid Recreation after Divine Service. Pro- 'hibiting likewiſe any offenſive Weapons to be Carried, or Uſed 'in the ſaid times of Recreation: And his pleaſure is, that this his 'Declaration ſhall be publiſhed by order from the Biſhop of the 'Dioceſs, through all the Pariſh Churches, and that both the 'Judges of the Circuits, and the Juſtices of the Peace be inform- 'ed thereof.

Given at the Manner of *Greenwich* the 24*th* day of *May*, in the ſixteenth *Year* of His Majeſties Reign, of *England*, *France* and *Ireland*, and of *Scotland* the one and fiftieth.

NOw *out of a like Pious Care for the ſervice of God, and for ſuppreſſing of any Humours, that oppoſe truth, and for the Eaſe, Comfort and Recreation of his Well-deſerving People, His Majeſty doth Ratifie and Publiſh this his Bleſſed* Fathers Declaration: *the rather, becauſe of late in ſome Counties of this Kingdom, His Majeſty finds that under pretence of taking away abuſes, there hath been a General forbidding, not only of ordinary Meetings, but of the* Feaſts *of the Dedication of the Churches, commonly called* Wakes. *Now His Majeſties expreſs*

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expreſs Will and Pleaſure is, That theſe Feaſts, *with others, ſhall be obſerved, and that his Juſtices of the Peace, in their ſeveral Diviſions, ſhall look to it, both that all Diſorders there, may be prevented or puniſhed, and that all Neighbourhood and Freedom, with Manlike and Lawful Exerciſes be uſed. And His Majeſty further Commands all Juſtices of* Aſſize *in their ſeveral Cirtuits to ſee, that no man do trouble or moleſt any of his Loyal and Dutiful People, in or for their Lawful Recreations, having firſt done their Duty to God, and continuing in Obedience to His Majeſties Laws. And for this His Majeſty Commands all his Judges, Juſtices of Peace, as well within Liberties as without, Majors, Bayliffs, Conſtables, and other Officers, to take notice of, and to ſee obſerved, as they tender his Diſpleaſure. And doth further Will, that publication of this his Command be made by Order from the Biſhops, through all the Pariſh Churches of their ſeveral Dioceſſes reſpectively.*

Given at the *Palace* of *Weſtminſter*, the 18*th* day of *October*, in the Ninth Year of his Reign.

GOD ſave the KING.

As concerning the Effects of this *Declaration*, we ſhall have occaſion in its proper time and place, to make mention of many particulars wherein it proved a ſnare to many Miniſters very Conformable to the Church of *England*, becauſe they refuſed to read the ſame publickly in the Church as was required, for upon this many were Suſpended and others Silenced from Preaching.

Term. MICHAELIS.

Anno 1633.

About this time a *Decree* was made in the High Court of *Star-Chamber*, in *Michaelmas Term*, after Conſultation had among the Judges, and Certificate of their Opinions in divers things, *&c.*

And alſo a Confirmation of the *Decree* by His Sacred Majeſty, together with His Majeſties Command, that the ſame ſhould be Printed, Publiſhed and put in due Execution.

The Contents of which are.

1. *Againſt Ingroſſing, and eſpecially of Grain by* Chandlers.
2. *That* Taverners *ſhould not ſell Victuals within their Houſes; for that is againſt Law.*
3. *That* Bakers *ſell not at* 14, 15, *or* 16 *to the Dozen, as hath been uſed.*
4. *Againſt the Exceſſive Rates of* Ordinaries, *that none exceed two ſhillings a Meal.*
5. *That* Ordinary-Keepers, Taverners *and* Victuallers *keep not Houſes of* Gaming.

6. For

6. *For the preſent Rates of* Horſe-meat, *and for Regulating for the Future.*
7. *For ſuppreſſing inconvenient time of* Petty-Oſtries *in Corners, kept by ſuch as are neither* Victualers, *nor* Innkeepers, *nor anſwerable for the Goods of their Gueſts.*

9 *Caroli.*

Here followeth the *Decree* and the Judges Opinions.

A Decree of Star-Chamber.

Charles, *by the Grace of God King of* England, Scotland, France *and* Ireland, *Defender of the Faith*, &c. *To all and to whom theſe Our* Letters Patents *ſhall come*, Greeting.

'KNow ye, that we have ſeen a certain *Decree* made by Our 'Council, in Our Court of *Star-Chamber* the 13*th* day of *No-* 'vember, in the 9*th* Year of Our Reign, which remaineth of record 'among the Records and Remembrances of that Court, contain- 'ing divers Ordinances; which Decree followeth in theſe Words.

In Camera Stellata coram Concilio ibidem 13 *die Novembris, Anno nono Coroli Regis.*

'His Majeſties Attorny General did this day Inform this Honou- 'rable Court, that it having been preſented to the Lords of His 'Majeſties moſt Honourable Privy Council, that as well the Prizes 'of all ſorts of Victuals, as alſo of Horſe-meat, were grown to ex- 'ceſſive Rates; and that Inſtance thereof was given in particular 'by his Majeſties Officers of the *Green-Cloath*, in ſeveral proviſions 'made for His Majeſties Houſe, whereby the Weekly Accounts of 'the Houſhould were much increaſed.

'It was thought fit and ordered, that His Majeſties *Attorney Ge-* 'neral, as well upon Conference with ſuch of the Judges, and ſuch 'of His Majeſties Learned Council as he ſhould think fit; as up- 'on peruſal of all ſuch Laws and Statutes, as are in force concern- 'ing the ſettling of Prizes of Victuals and Horſe-meat, ſhould make 'Report unto the *Board* of his Opinion concerning the ſame, as by 'their Lordſhips Order of the 9*th* of *October* laſt paſt appeareth: 'and declared that according to the ſaid Order, he had at ſeveral 'days attended His Majeſties Juſtices of the Kings *Bench* and *Com-* 'mon *Pleas*, and Barons of the *Exchequer*, who made Certificate of 'their Opinion in Writing ſubſcribed by them, which Certificate 'the ſaid Attorney preſented unto this Court, and followeth in 'theſe Words.

Mr. *Attorney*,

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'Mr. *Attorney* We ſend you here incloſed our Opinions of theſe 'things, which were propounded, and thought fit to be re-'formed at our laſt General Meeting.

Thomas Richardſon.	*George Crook.*
Robert Heath.	*Thomas Trevors.*
Humphry Davenport.	*George Vernon.*
John Denham.	*Robert Barkeley.*
Richard Hutton.	*Francis Crawley.*
William Jones.	

'Touching Victuals, we find *Ingroſſing* to be a great occaſion to 'raiſe the Prizes thereof, an offence utterly againſt the *Common-'Law:* and amongſt Ingroſſers we find the *Chandlers* to be great 'Offenders in Buying great quantities of all ſorts of Grain brought 'unto, or towards the *Market.*

'We alſo find that *Taverns* are of late exceedingly increaſed in 'their number, in and about *London*; and that they Dreſs Fleſh and 'Fiſh, and utter the ſame at exceſſive Prizes, to the increaſe of Ri-'ot and other Abuſes; whereas by the Law, *as Taverners* they are 'to ſell nothing but Wine, unleſs it be Bread to eat therewith.

'We find that *Bakers* do ſell their Bread at 14, 15, and 16 to the '*Dozen*, where they ſhould keep the Aſſize, and not ſell above 12, 'or 13 at the moſt to the *Dozen*; and this pincheth the Poor.

'We wiſh that *Ordinaries* in and about *London* may be regulated 'to a convenient ſum, and not to exceed two ſhillings for the Meal: 'and we wiſh that both *Taverners* and *Ordinary-Keepers* may be 'wholly reſtrained from ſuffering unlawful Games in their Houſes: 'for we find that this draws unthrifty Gueſts unto them, and is an 'apparent means to overthrow the Fortunes of many Gentlemen 'and Citizens.

'Touching *Horſe-meat*, upon hearing of divers Juſtices of Peace 'of *Middleſex* and *Surrey*, and of divers *Inn-keepers* of *London*, *Weſt-'minſter*, *Middleſex* and *Surrey*; We are of Opinion that the pre-'ſent Prizes of Hay and Oats conſidered, ſix Pence day and Night 'for Hay for a Horſe, and for Oats ſix Pence a Peck *Wincheſter 'meaſure*, is a Competent Rate to be given to *Inn-holders*, and to 'take nothing for Litter; and if they exceed theſe Rates, we hold 'them puniſhable by the Law, as for exacting Exceſſive and Un-'meaſurable Prizes. For *Horſes* which come to Inns in the day-'time, we conceive it to be a convenient Rate for the *Inn-keeper* to 'take a Penny for a Horſe, for his Stable-room only, the Horſe not 'being Unbridled; if he be Unbridled and have Hay, and go away 'the ſame day, to take two Pence the Horſe, and no more.

'We find that of *late Years*, there are many petty *Oſtries* ſet up in 'and about *London*, which entertain Horſes in by-corners, and receive 'Stable-Horſes, and the Horſes of ſuch who are perſons ſuſpected, 'and theſe have no Lodging for Travellers. By theſe *Oſtries* great 'Inconveniences happen to the Subject in general, and much preju-'dice to the *Inn-holders* in particular, who by Law are bound to 'Lodge their Gueſts, and to be anſwerable for the Goods brought 'into their Charge.

'We

9 *Caroli.*

'We find alſo that there are divers, who unlawfully ingroſs 'great quantity of Hay to ſell again: Theſe are Ingroſſers puniſh-'able by the *Common-Law*; and humbly moved this Honourable '*Court*, that the ſame might be here recorded; and that the Court 'would be pleaſed for the good of His Majeſty's people, to Decree 'and Command that the particulars thereof be ſtrictly obſerved. 'Whereupon this Honourable *Court* taking the ſame into their ſe-'rious Conſideration, hath ordered, that the Certificate be Record-'ed in this Honourable *Court*; and hath Decreed,

'*Firſt*, For that it is notoriouſly known, that Ingroſſing is a 'great occaſion to raiſe the prices of Victuals, and alſo of Hay; 'and Ingroſſing to inhance prices is puniſhable, not only by the '*Statutes*, but alſo by the *Common Laws* of the *Realm*; His Maje-'ſties Juſtices of the *Benches* at *Weſtminſter*, and Barons of the *Ex-'chequer*, the Juſtices of *Aſſize* and *Oyer* and *Terminer*, and Juſtices 'of Peace in their ſeveral places, are required to cauſe diligent in-'quiry to be made of all *Ingroſſers* of all ſorts of Victuals and Hay, 'and ſee the Delinquents herein be ſeverely puniſhed.

'And His Majeſties Attorney General is likewiſe Commanded, 'to cauſe ſuch of them as ſhall be brought to his notice, to be in-'formed againſt in this Honourable Court, that of them Example 'may be made to deter others from the like Offence.

'And it is *Decreed*, that after publication of this Decree in '*London*, no *Chandler* preſume to buy Corn, Grain, Meal, or Flowre 'to ſell again, either in Market, or out of Market.

'And this Court concurring in Opinion with the ſaid Reverend '*Judges*; and conſidering the great Exceſs and Riot, that is occaſi-'oned by preparing and ſelling of Victuals in *Taverns*; and how 'the prices of ſundry ſorts of *Viands* are hereby increaſed; hath 'Decreed, that no *Taverner* or *Vintner*, ſelling Wine by Retail, 'do hereafter ſell, or make ready for ſale, any ſort of Fleſh or Fiſh, 'or other Victuals ſave Bread; nor to defraud this Ordinance, do 'by himſelf, or any other ſet up, or cauſe, or procure to be ſet up 'the Trade of a *Cook* within the ſame Houſe, or in any Shop or 'Room thereunto belonging, or in any Houſe thereto near adjacent; 'nor permit or ſuffer any Fleſh, Fiſh, or other Victual, except Bread, 'as aforeſaid, to be brought into his Houſe to be there eaten by 'any of his Gueſts.

'And the *Court* taking into Conſideration, how the Poor are 'oppreſſed and pinched, when *Bakers* do ſell their Bread to thoſe 'that vend the ſame by Retail, at the rates of more than twelve to 'the *Dozen*, in that the weight is abated in every Loaf; and the 'Buyer being ſometimes but a Paſſenger, is not able to make Com-'plaint of the *Baker*, whom he knoweth not: It is therefore likewiſe 'Ordered and Decreed, that no *Baker* ſhall ſell any Bread at other 'rate than 12, or 13 at the moſt to the *Dozen*.

'And further it is Decreed, that none that ſhall keep *Ordinary-'Tables*, or other Victualing-Tables, ſhall take more of the Gueſts 'than after the rate of two ſhillings the man for the Meal, nor more 'than eight Pence for each Servant attending his Maſter; and 'that nothing be taken above that rate for Wine, or other 'thing, or under colour thereof, whereby the true intent of 'this *Decree* may be deluded, or defrauded. And that none of

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'them, or *Taverners*, or other Victualers, keep or ſuffer to be uſed 'Games of *Dice*, *Cards*, *Tables*, or other unlawful Games in their 'Houſes, wherein this Court declareth the Licenſes given by the '*Groom-Porter* of His Majeſties Houſe, or others, for Licenſing or 'Permitting any of the ſaid *Games*, are not of validity to excuſe 'the Offenders.

'Concerning *Horſe-meat*, For that upon hearing of the ſaid Juſti-'ces of the Peace, and *Inn-keepers*, the preſent Prices conſidered, 'the Rates before ſpecified are Competent;

'It is for the preſent *Ordered* and *Decreed*, that no *Inn-keeper*, or '*Oſtler* within the Cities of *London* or *Weſtminſter*, or in any place 'within the diſtance of ten miles from either of thoſe *Cities*, the 'Suburbs, or Liberties of either of them, ſhall take above ſix Pence 'for a Horſe ſtanding in his Stable at Hay, a day and a night; nor 'more than ſix Pence for a Peck of Oats, of the Meaſure commonly 'called *Wincheſter-Meaſure*, without taking any thing for Litter, 'nor more than a Penny for ſtanding of a Horſe in his Stable a day 'without Meat, nor above two Pence for a Horſe ſtanding at Hay 'in the Day, and going away before Night.

'And that no *Inn-keeper* ſhall exceed thoſe Rates in any part of 'this *Realm*; and where Grain and Hay are ſold at leſſer Prices, 'there the Rates and Prices ſhall be accordingly. And this Ordi-'nance ſhall continue, until in the County of *Middleſex* it ſhall be 'made to appear to the Juſtices of the Kings *Bench*, and in other '*Counties* and places, to the Juſtices of Peace there; that becauſe 'of the Increaſe of Prices in the parts adjoyning, greater Rates 'are neceſſarily to be permitted: and thereupon other Rates ſhall 'from time to time be ſet; which being ſet, are hereby Com-'manded and Injoyned to be ſtrictly and duly obſerved, until the 'ſame by like Authority ſhall be altered.

'And to the end that there may be from time to time, moderate 'Rates and Prices for Hay, and Grain of all ſorts, taken by *Inn-'Keepers* and *Oſtlers*, of Paſſengers and their Gueſts; His Majeſties 'Juſtices of the Kings *Bench* are deſired, and the Juſtices of the 'Peace of other *Counties* and Places are required yearly, and more 'often if there ſhall be occaſion, to make diligent inquiry of Hay 'and other Horſe-meat, and to make Declaration in Writing fixed 'in publick places, what Prices and Rates for Hay, and other Horſe-'meat are allowed to be taken by *Inn-keepers*, which the ſaid *Inn-'Keepers* and *Oſtlers* are Commanded to obſerve.

'And if any of them ſhall preſume to offend therein, that dili-'gent inquiry be made of them; that they being preſented, may 'without Connivance receive ſevere puniſhment as oppreſſors of 'His Majeſties people, by taking exceſſive Prices.

'Moreover, the *Court* conſidering the great inconveniences that 'do ariſe by the number of petty *Hoſtries* and *Oſtlers*, that keep 'Stables for Horſes without Lodging for Gueſts; not liable, nor 'able to make ſatisfaction for Goods under their Cuſtody, that 'ſhall be ſtolen or imbezeled: yet taking conſideration of their Po-'verty, and that it would tend to their undoing, if they ſhould be 'ſuppreſſed, before ſuch time as the ſtore they have already provi-'ded, ſhall be ſpent; the Juſtices of the Peace of the *City* of *Lon-'don*, Suburbs and Liberties thereof, the *City* of *Weſtminſter* and

'*Burrough*

9 Caroli.

'*Burrough* of *Southwark*, and of the *Counties* of *Middlesex* and *Surrey*, are required with all convenient speed, to make inquiry of 'all such petty *Ostries* within the said Cities, Burroughs, Suburbs, 'Liberties, and all places not distant above two miles from some 'part thereof, and what Provision of Hay, Oats and Provender re-'maineth in their hands unspent; and to Command them not to 'make any farther Provision.

'And after that which is remaining in their hands shall be spent, 'no longer to use or keep such *Ostries*.

'And it is *Decreed* by this *Court*, that none after that time shall 'keep, or use any such *Ostries*.

'And to the end, that notice may be taken of this *Decree* by all 'those whom it may concern; and that none may excuse himself 'upon pretence of being ignorant of the Contents thereof;

'It is *Ordered*, that the same be published in the Cities of *London* and *Westminster*, and in the several *Counties* of this Realm, at '*Assizes*, *Sessions*, and other places of publick Assemblies.

'And all they to whom the execution thereof pertaineth are required, that they see the same put in due execution.

'*Know ye*, that we taking into Our Consideration, that the said '*Decree* was made upon grave and sad Advice, and upon the Cer-'tificate of Our *Judges*, and that the same is Just and Necessary to 'be observed, have Approved the same *Decree*, and do Ratifie and 'Confirm the same: and the Necessity of these Times requiring 'it,

'*We do Command*, that the same by all those whom it concern-'eth be obeyed and put inexecution, under the pains to be in-'flicted upon the Contemners of Our Command, and the *Decrees* 'of that *Court*.

'And to the end that all our Loving Subjects may be participants 'of the good thereof, and may complain of those things wherein 'they shall be grieved, contrary to the tenor of the said *Decree*, 'and of those that in disobedience shall contemn, or neglect the due 'observance thereof;

'We do Command Our *Printer*, that he forthwith cause these 'Presents to be Printed and Dispersed into the several Counties of 'this *Realm* with expedition; so that in every of those *Counties*, the 'same may be published at the general *Session* of the *Peace*, to be 'holden next after the *Feast* of the *Epiphanie* now next coming, 'that Our People of those *Counties* may take notice thereof.

'And we do Command the *Justices* of the *Peace*, that at their 'said *Sessions* in every of the said *Counties*, the same be openly read: 'and we do require Our *Council* in our Court of *Star-Chamber*, the 'Justices of our *Benches*, Barons of Our *Exchequer*, Justices of *As-'size* and *Oyer* and *Terminer*, and *Justices* of the *Peace*; that against 'all those that shall offend against the said *Decree*, they proceed 'without Connivence, as they tender Our Service and the good of 'Our People.

'Whereof We have caused these *Our Letters* to be made *Patents*. Witness Our Self at *Westminster*, the 14*th* day of *December*, in the 9*th* Year of Our Reign. *Per ipsum Regem*.

WILLIS.

An. 1633.

Mich. 9 *Car.*

Coates *versus* Goring *& alios.*

'THe Defendant *Munday* being Arrested in *Chelsey-fields*, at 'the Plaintiffs Suit, by two of the Sheriff of *Middlesex* Bai-'liffs, lay down on the ground, and desired that notice might be 'given to his Friends thereof, and that they would not suffer him 'to be carried away; whereupon *Goring* being then a Constable, 'together with the Defendants *Richard Munday*, *Wine* and *Trott*, 'who were weaponed with Staves, with divers others, came to the 'Bailiffs, who told them they had Arrested *Thomas Munday*; and 'then the said *Wine*, *Trott* and *Richard Munday* sware, they should 'not carry him a foot farther; and *Goring* the Constable, under 'pretence of keeping the peace, took away the Bailiffs Weapons,

Riotous Rescue.

'and then did knock them down; and then the Defendants did, 'with others, sore beat and wound the Plaintiff and the Bailiffs, 'and Rescued the Prisoner, and then carried the Plaintiff, and Bai-'liffs to *Chelsey*; and by the way *Goring* threatned to throw one of 'the Bailiffs into the *Thames*: and when they came to *Chelsey* he 'caused them to be shut up into a Room, and would not suffer a 'Chirurgeon to come to them to stanch their Bleeding, by the space 'of an hour and half, and in that time he took away the Bailiffs 'Warrant. And for these offences they were all committed; *Go-*

Fifty pound Damages.

'ring fined fifty pound, and the other four and twenty pounds a 'piece, all bound to the good Behaviour a year, and pay fifty pound 'damage to the Plaintiff.

Mich. 9 *Car.*

Attorn. Regis ore tenus Versus Jagger *& alios.*

'THe Defendants confederated and agreed together to make 'Counterfeit Farthing-Tokens, and accordingly they did so. '*Jagger* and *William Cooper* were the Work-men, and by the help 'of *Meacombe*, a Black-smith, provided Tools for that purpose; *Augur* 'furnished them with Mony and Copper, and was to have a share of 'the Farthings, and profits thereof; and *Ralph Cooper* bespake some

Counterfeiting of Farthings, and making Instruments for that Purpose.

'of the Tools, and paid eleven Shillings towards them, and was to 'have a third part; and had, and did vent some of the Tokens which 'they made; and *Meacombe* the Smith made part of the Tools, being 'told for what purpose they were. And for this they were Com-'mitted, Fined 100 *l.* a piece, set on the Pillory in *Cheapside*, and 'thence whipped through the Street to Old *Bridewel*, and there 'received and kept at Work; and if ever they be thence enlarged, 'then first to find Sureties for their good Behaviour.

Mich. 9 *Car.*

Attorn. Regis per Rel' Southcot & aliis Set Cap versus Thornbury. Libel.

'THe Defendant out of malice to the Relator, being a Chirur-'geon in *Chichester*, did, in the presence of divers persons, 'publish certain Libelous Rhythmes and Verses, which he said were 'made of the Relator, beginning thus, From *Cet to South*, from

'*Cap*

'*Cap to Scot*; and ending thus, *And is not he a very Knave, who* '*makes a Privy of a Grave?* And for this he was committed to the 'Fleet, fined fifty pound, to ask the Relator forgiveneſs at *Chicheſter* 'before the Mayor, and pay him twenty pound Damages.

9 *Caroli.*

Twenty pound Damage.

Mich. 9 Car.

Star-Chamber *Attorn' Regis per Rel' Buſhen vers' Dom' Vicecom' Kilmallock, & al' de* Ireland.

'THe Defendant, Sir *Henry Bealing*, together with one *Mac-robin* deceaſed, who bare malice to the Relators Father, 'and vow'd to be reveng'd of him, falſely informed the Juſtices of 'Aſſize, That the ſaid *Buſhen* the Father had murdered his Wife, 'and thereupon he was bound over to anſwer it at the Aſſizes; and the 'Grand Jury, upon the Bill of Indictment againſt him, return'd '*Ignoramus* twice: and the Juſtices of Aſſiſe having, for diſcovery 'of the Truth, examined divers Witneſſes, they gave direction to 'acquit him by Proclamation; which the Defendant *Bealing* per-'ceiving, and being incenſed againſt *Buſhen* for ſome words that he 'uſed then in Court, he did again preſs and procure the Lord *An-'gier*, then Judge of Aſſiſe, to bind the ſaid *Buſhen* over again un-'to the next Aſſiſes, and ſaid he would be bound to Proſecute, and 'find other Evidence againſt him for the King: and between that 'and the Aſſiſes *Bealing* vow'd, he would ſpend all the Friends, 'and Means he had, but he would have *Buſhen* hang'd; and alſo 'ſaid he would follow him to Hell-gates, but he would hang him. 'And to effect that his Deviliſh Purpoſe, he earneſtly ſollicited the 'Lord Viſcount *Loftus*, Lord Chancellor of *Ireland*, to inter-'poſe therein, and give his Aſſiſtance, telling him great advantage 'would be made thereby, for that *Buſhen* was a Man of a great E-'ſtate; which the Lord *Loftus* refuſing, *Bealing* ſent a Servant 'to *Welden*, then High-Sheriff of the County, to tell him, that if 'he would joyn with him the ſaid *Bealing* to Convict *Buſhen*, it 'ſhould be worth him 5000 *l.* And before the Aſſiſes, *Bealing* 'told the Lord *Loftus* he had gotten a Man of Power that would 'proſecute it with effect. And at the Aſſiſes, the Defendant the 'Lord *Kilmallock* being then Chief-Juſtice *de Com' Banco* in *Ireland*, 'and Juſtice of Aſſiſe, (and being, as it ſhould ſeem by the ſe-'quel, the Man of Power mentioned by *Bealing*) cauſed the Sheriff, 'on the 2*d* day of the Aſſiſes, about 7 or 8 a Clock in the morning, 'to ſend for the Grand Jury to the ſaid Sheriffs Houſe; and they 'being brought into the Dining Chamber there, he cauſed all per-'ſons whatſoever to be ſhut forth, except the Judges themſelves, 'the Jury, the Clerk of the Crown, the Sheriff, and the Defen-'dant *Bealing* the Proſecuter: and the doors being ſhut, the De-'fendant, the Lord *Sarsfeild* Viſcount *Kilmallock*, cauſed a Bill of 'Indictment to be preferr'd, and read to the Jury againſt *Buſhen*, 'for the Murder of his Wife, and then bid the Jury go together 'and find the Bill, and told them they ought to find the Bill; and 'the Jury deſiring to have ſome Evidence, the Defendant *Kil-'mallock* call'd the Defendant *Bealing*, who upon his Oath did De-'poſe only, that he heard *Buſhen* murdered his Wife, which was 'all the Evidence they had, ſaving that the Lord *Sarsfeild* told

Malitious Practice, proſecution of an Innocent Man for Murder.

'ſome

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'ſome impertinent Tales and Diſcourſes of the ſtrange and miracu-
'lous Diſcoveries of ſecret Murders, and ſaid, That unleſs they
'would expect a Miracle from Heaven, they could have no better
'Evidence than they had. And afterward Four of the Jury refu-
'ſing to find the Bill, the Lord *Sarsfeild* told them, if they would
'not find the Bill, they muſt attend him in Court, which they did:
'and one of them being ask'd, Whether he was with the Bill, or
'againſt the Bill? and he anſwering againſt the Bill, the Lord
'*Sarsfeild* told him, he look'd for no better at his hands; and told
'another of them that was againſt the Bill, it was one of his *Lon-*
'*don* Tricks, and then Committed the Four that would not find the
'Bill, put them off from the Jury, and fined them 40 *l.* a piece;
'and ſtriking his hand on his Breaſt, ſwore by his Honour, that
'not one Penny of their Fines ſhould be remitted; and immediately
'after cauſed the 11 that yielded to find the Bill, and Two others
'to be ſworn of a new Grand Jury, and they going together, found
'the Bill *Billa Vera.* And thereupon *Buſhen* coming to be Tryed
'for his Life by the Petty Jury, and Evidence being about to be
'given againſt him, he deſir'd, in reſpect of his Age and Deafneſs,
'and the then Noiſe of the Glaſs-Windows, by reaſon of a pre-
'ſent Storm, and the Noiſe of the People, that he might have
'leave to come out of the Bar, and ſtand where he might hear
'what Evidence was given againſt him, that he might the better
'anſwer for himſelf; which the Lord *Sarsfeild* unjuſtly denied him.
'And *Buſhen* being charged, that he himſelf put his Wife into
'her Winding-ſheet, deſir'd, that ſuch perſons as did view her
'Body after her death, and did wind her, might be heard to diſco-
'ver the Truth; the Lord *Sarsfeild* unjuſtly denied that alſo: and
'*Buſhen* then deſiring that the Juſtice of Peace, who had taken the
'Examination of the Buſineſs, might be heard, the Lord *Sarsfeild*
'denied him that Requeſt alſo. And the Petty Jury, after going
'together, and ſtaying ſomewhat long, the Lord *Sarsfeild* ſent them
'word, that if they would not agree and come away, he would
'carry them with him the next day in a Cart; and being told that
'they were all agreed but one, he ſent a Meſſage to the Jury, in-
'citing them to pinch that Man that would not agree; to pull him
'by the Noſe, by the Hair of the Head, and by the Beard; and by
'that means to compel him to agree with them; and bid the Jury
'make much of him that night, and that he would make much of
'him the next day; and ſent that one Man word, that it had been
'better for him to agree. And ſoon after theſe threatning Meſſa-
'ges delivered to the Jury, and they knowing the Meſſage of the for-
'mer Jury, did, upon light Evidence of Hear-ſays only delivered
'by *Bealing*, and others, find *Buſhen* Guilty of the Murder of his
'Wife, and he was condemned, and Executed for the ſame, when
'as it clearly appear'd ſhe died of a Natural Death, and Diſeaſe of
'the Bloody-Flux. And for this foul Carriage, the Lord *Sarsfeild*
'Viſcount *Kilmallock*, was Committed to the *Fleet*, during His Ma-
'jeſties Pleaſure; Fined 2000 *l.* to the King, and 1000 *l.* Damage
'to *Buſhen* the Relator: *Bealing* Knight, for his malitious Proſecu-
'tion, Deviliſh Practice and Attempt to get other Men of Power
'into his Wicked Proſecution, was Committed to the *Fleet*, Fined
'500 *l.* and to pay 250 *l.* Damage to *Buſhen*, the Relator.

Unjuſt, and Indirect Carriage in a Judge upon the Arraignment and Trial of a Man for Murder, whereby an Innocent Man was Condemned and Executed.

1000 *l.* Dam'.

250 *l.* Dam'.

The

9 *Caroli.*

The Biſhop of *London* being lately Tranſlated to be Arch-Biſhop of *Canterbury*, he, by vertue of his Place, as the greateſt Man in the Church, thought fit to adviſe His Majeſty for a Reformation in the Church of *Scotland*, and began with the *Royal Chappel* in theſe following *Articles* ſent in His Majeſties Name, with a *Letter* to command Obedience.

Charles Rex.

October the 8*th* 1633. The Articles for his Majeſties Royal Chappel in *Scotland*.

OUr expreſs Will and Pleaſure is, That the Dean *of Our Chappel, that now is, and his Succeſſors, ſhall be Aſſiſtant to the Right Reverend Father in God, the Arch-Biſhop of St.* Andrews, *at the Coronation, ſo often as it ſhall happen.*

That the Book of the Form of Our Coronation lately uſed, be put in a little Box, *and laid into a* Standard, *and committed to the Care of the* Dean *of the Chappel ſucceſſively.*

That there be Prayers twice a day, with the Quire, *as well in Our abſence, as otherwiſe, according to the* Engliſh Liturgie, *till ſome Courſe be taken for making one, that may fit the Cuſtom and Conſtitution of that Church.*

That the Dean of the Chappel look carefully, that all that receive the Bleſſed Sacrament there, receive it Kneeling; and that there be a Communion held in that Our Chappel the firſt Sunday *of every* Month.

That the Dean *of Our Chappel that now is, and ſo ſucceſſively, come duly thither to Prayers upon* Sundays, *and ſuch* Holy-days *as that Church obſerves, in his* Whites, *and Preach ſo, when-ever he Preacheth there. And that he be not abſent from thence, but upon neceſſary occaſion of his* Dioceſs *or otherwiſe, according to the Courſe of his Preferment.*

That theſe Orders *ſhall be Our Warrant to the* Dean *of Our Chappel. That the Lords of Our* Privy Council, *the Lords of the* Seſſions, *the* Advocate, Clerks, *Writers to the* Signet, *and Members of Our* Colledge of Juſtice, *be commanded to receive the Holy Communion, once every Year at the leaſt, in that Our* Chappel Royal, *and Kneeling for Example ſake to the Kingdom. And We likewiſe Command the* Dean *aforeſaid to make Report yearly to Us, how We are obeyed therein, and by whom, as alſo if any Man ſhall Refuſe, in what manner he doth ſo, and why?*

That the Copes which are Conſecrated to Our Uſe, be delivered to the Dean *to be kept upon Inventory by him, and in a Standard provided for that purpoſe; and to be uſed at the Celebration of the Sacrament in Our* Chappel Royal.

Charles Rex.

The Letter. *Octob.* 8.

REverend Father in God, Truſty and well-beloved Councellor, We Greet you well. We have thought good, for the better ordering of Divine Service, *to be performed in Our Chappel* Royal *there, to ſet down ſome Articles under Our own Hand, to be obſerved therein, which We ſend you here incloſed. And it is Our ſpecial Pleaſure, That you ſee every thing carefully performed, according as We have directed by theſe Our incloſed* Articles; *and likewiſe that you Certifie to the Lords of Our* Privy Council, *if any of thoſe appointed by Our former Letters to*

An. 1633. *to them, to Communicate in Our Chappel-Royal, ſhall not accordingly perform the ſame, to the end ſuch Order may be taken by Our Council therein, as by Our ſaid former Letters to them We did appoint. Wherein expecting your Diligence and Care, We bid you Farewell.*

From Our Court at *Whitehall* the 8*th* day of *October* 1633.

Moreover, the Arch-biſhop of *Canterbury* had a Warrant from the King, to hold Correſpondence with the Biſhop of *Dunblane*, the preſent Dean of the Chappel-Royal in *Edenburgh*, and from time to time to Communicate unto him His Majeſties further Directions, for the ordering of this Service. The Royal Chappel being thus ordered, was declared to be for a Pattern of the Intended Reformation to all *Cathedrals*, *Chappels*, and *Pariſh-Churches* in *Scotland*.

After this the Arch-biſhop wrote divers Letters to Biſhop *Balentine*, to promote the Deſign, and to let His Majeſty receive a Note, who thoſe be that Conformed, and who not.

Another Letter Informing him of his miſſing the Biſhoprick of *Edenburgh*, for his Omiſſion of Prayers in the Chappel, according to the *Engliſh Liturgie*, &c. and Exhorting him to be careful for the future, and that his Excuſe was not ſatisfactory, *viz.* That the Singing-Men could not come for Debt; for that the Prayers might have been read by his Lordſhips *Chaplain*. That he did well to acquaint the Lords with His Majeſties Reſolution concerning the Communion there.

Another to like purpoſe, and concerning the payment of the Singing-Mens Wages.

Another, *January* the 12*th* 1634. giving him Thanks for his Reſolutions about ordering the Kings Chappel, and wearing his Whites, *&c.*

Another, *February* the 28*th* 1634. containing Thanks from the King, for the Solemnity of the late Communion, and expreſſing his Hopes, that the other Biſhops were in their *Whites* as well as he, that the Envy of the Vulgar might not fall only on him. That he had ſhewed His Majeſty the Paper of thoſe of the *Seſſion*, as did not Conform at the Communion. That he had done what he could for the Gentleman of the Chappel; but the Times required Patience, *&c.*

And on the 28*th* of *September* 1634. the Arch-biſhop of *Canterbury* cauſed the King to Sign a Common-Prayer-Book, for the uſe of the Church of *Scotland*: and gave order to the Biſhops of *Scotland*, to compile certain Canons for the Government of the Church of *Scotland*; which Liturgie and Canons were to be Impoſed upon that Church, by Regal, and Epiſcopal Authority, without Conſent of *Parliament*, or of a General *Aſſembly*. The Biſhops of *Scotland*, not long after, gave the Arch-Biſhop of *Canterbury* a particular Account of their Proceedings therein, with Thanks for his many Favours to them.

In

9 *Caroli.*

In theſe Times the Communion-Table in Parochial Churches began to be placed *Altar-wiſe* after the Pattern of *Cathedrals*, which were called *Mother-Churches*.

St. *Gregories* Church.

ON the 3*d* of *November* was debated before His Majeſty, ſitting in Council, the Queſtion and Difference which grew about the removing the Communion-Table in St. *Gregories* Church near the *Cathedral Church* of St. *Pauls*, from the middle of the Chancel to the upper end, and there placed *Altar-wiſe*, in ſuch manner, as it ſtandeth in the ſaid Cathedral and *Mother-Church*, as alſo in all other Cathedrals, and in His Majeſties own Chappel and as it is conſonant to the practice of approved Antiquity; which removal, and placing of it in that ſort, was done by order from the *Dean* and *Chapter* of St. *Pauls*, who are Ordinaries thereof, as was avowed before His Majeſty by Dr. *King* and Dr. *Montfort*, Two of the *Prebendaries* there: yet ſome few of the Pariſhioners, being Five in Number, did complain of this Act by Appeal to the Court of *Arches*, pretending that the Book of Common-Prayer, and the 82*d* *Canon*, do give permiſſion to place the Communion-Table where it may ſtand with moſt fitneſs and convenience. Now His Majeſty having heard particular relation made by the Counſel of both Parties, of all the carriage and proceedings in this Cauſe, was pleaſed to declare his diſlike of all Innovation, and receding from Ancient Conſtitutions, grounded upon juſt and warrantable Reaſons, eſpecially in Matters concerning Eccleſiaſtical Order and Government, knowing how eaſily Men are drawn to affect Novelties, and how ſoon weak Judgments, in ſuch Caſes, may be overtaken and abuſed: Further alſo obſerving, that if theſe few Pariſhioners might have their Wills, the Difference thereby, from the aforeſaid Cathedral *Mother-Church*, by which all other Churches depending thereon ought to be guided, would be the more notorious, and give more ſubject of Diſcourſe and Diſputes that might be ſpared, by reaſon of St. *Gregories* ſtanding cloſe to the Wall thereof. And foraſmuch as concerns the Liberty given by the Common-Book, or *Canon*, for placing the Communion-Table in any Church or Chappel with moſt convenience; it was anſwered, That ſuch Liberty is not ſo to be underſtood, as if it were ever left to the diſcretion of the Pariſh, much leſs to the particular Fancy of any humorous perſon, but to the Judgment of the Ordinary, to whoſe Place and Function it doth properly belong to give direction in that Point, both for the thing it ſelf, and for the time when, and how long, as he may find cauſe; upon which Conſideration His Majeſty declared, That he well approved and confirmed the Act of the ſaid Ordinary, and ſo gave Commandment, that if thoſe few Pariſhioners before mentioned did proceed in their ſaid Appeal, the *Dean* of the *Arches*, who was then attending at the hearing of the Cauſe, ſhould confirm the ſaid Order of the aforeſaid Dean and Chapter.

An. 1633.

The Lords preſent at the making of this Order were theſe.

The King's Moſt Excellent Majeſty.

Lord Arch-Biſhop of *Canterbury.*	Earl of *Carliſle.*
Lord *Keeper.*	Lord *Cottington.*
Lord Arch-Biſhop of *York.*	Mr. *Treaſurer.*
Lord *Treaſurer.*	Mr. *Comptroller.*
Lord *Privy-Seal.*	Lord *High-Chamberlaine.*
Lord Duke of *Lenox.*	Earl *Marſhall.*
Lord *Chamberlaine.*	Mr. Secretary *Cooke.*
Earl of *Bridgewater.*	Mr. Secretary *Windebancke.*

Thomas Lord Viſcount *Wentworth*, Lord Deputy of *Ireland*, on the 22*d* of *January* 1633. was pleaſed to write to His Majeſty a Letter, giving his Humble Opinion concerning a Parliament in His Majeſties Kingdom of *Ireland*, as followeth.

January 22. 1633. The Lord Deputy of *Ireland*'s Advice to the King, concerning the calling a Parliament.

Albeit the calling of the Parliament in this Kingdom, is at no time of ſo much hazard, (where nothing is propounded as a Law, before it firſt borrows motion from Your Majeſties immediate Allowance under Your Great Seal) as it is in England, *where there is a Liberty aſſum'd to offer every thing in their own time, and order; and this Subordination, whereunto they have been led by the Wiſdom of former Times, is ever to be held as a* Sacred Prerogative, *not to be departed from, in no piece to be broken or infringed: yet is the Propoſition always weighty, and very neceſſary to be conſidered with great deliberation, whether the preſent Conjuncture of Affairs doth now adviſe a Parliament, or no? and after a ſerious Diſcourſe with my ſelf, my Reaſon perſwades me for the Aſſembling thereof.*

Lord Deputy *Wentworth*'s Letter. 1633.

For the Contribution from the Country toward the Army, ending in December *next, Your Majeſties Revenue falls ſhort* Twenty Thouſand Pounds Sterling *by year of the preſent Charge it is burthened withall, beſides the vaſt Debt of* Fourſcore Thouſand Pounds Iriſh *upon the Crown; which yearly Payments alone are impoſſible by any other way to be in time ſupplied, but by the Subject in* Parliament; *and to paſs to the Extraordinary, before there be at leaſt an Attempt firſt to effect it with eaſe, were to love difficulties too well; rather voluntarily to ſeek them, than unwillingly to meet them; and it might ſeem as well vanity in the firſt reſpect, ſo to affect them, as faintneſs to bow under them, when they are not to be avoided.*

The next Inclination thereunto ariſeth in me from the conditions of this Country, which is grown very much more civil and rich, ſince the Acceſs of Your Royal Father of Bleſſed Memory, and Your Majeſty to the Crown.

That all You have here is iſſued out again among them for their protection and ſafety, without any conſiderable Reſervation for other the great Affairs and Expences abroad.

That this great Charge is ſuſtained, and this great Debt *Contracted through Imployments for the Publick, whereof the benefit hitherto hath been intirely theirs. That there hath been but one* Subſidy *granted in all this time, nor any other* Supply *but this Contribution; in exchange where-*

9 *Caroli.*

whereof Your Princely Bounty *return'd them Graces as beneficial to the Subject, as their Money was to Your Majeſty; ſo as their Subſtance having been ſo increaſed under the Guard of Your Wiſdom and Juſtice, little iſſued hence from them. The* Crown *ſo preſſed only for their Good; and ſo modeſt a Calling upon them now for a Supply, which in all Wiſdom, Good Nature, and Conſcience, they are not to deny; Should they not conform themſelves to Your Gracious Will, their unthankfulneſs to God, and the beſt of* Kings, *would become inexcuſable before all the World, and the* Regal Power *more warrantably to be hereafter extended, for redeeming and recovering Your Majeſties Revenues thus loſt, and juſtly to puniſh ſo great a Forfeit, as this muſt needs be judg'd to be in them.*

Next, the frightful Apprehenſions, which at this time makes their Hearts beat, leſt the Quarterly Payments towards the Army, continued now almoſt Ten years, might in fine turn to an Hereditary Charge upon their Lands, incline them to give any reaſonable thing at preſent, to ſecure them from that fear for the future; and therefore according to the wholeſome Counſel of the Phyſician, Dum dolet, accipe.

And laſtly, if they ſhould meanly caſt from them theſe mighty Obligations, which indeed I cannot fear; Your Majeſties Affairs can never ſuffer leſs by their ſtarting aſide, when the General Peace abroad admits more united Power in Your Majeſty, and leſs diſtracted thoughts in Your Miniſters to chaſtiſe ſuch a forgetfulneſs, to call to their remembrance, and to inforce from them other and better Duties than theſe.

In the ſecond place, the time Your Majeſty ſhall in Your Wiſdom appoint for this Meeting *imports very much, which, with all ſubmiſſion, I ſhould adviſe might not be longer put off than* Eaſter *or* Trinity *Term at fartheſt, and I ſhall crave leave to offer my Reaſons.*

The Improvements mentioned in my Diſpatch to the Lord Treaſurer, *(from which I no way recede) would not be foreſtowed, wherein we loſe much by deferring this Meeting: a Circumſtance very conſiderable in theſe ſtreits, wherein, if ſurpriz'd, it might be of much diſadvantage, in caſe the* Parliament *anſwer not expectation; and to enter upon that Work before, would be an Argument for them to ſcant their Supply to Your Majeſty.*

Again, A Breach of a Parliament *would prejudice leſs thus, than in Winter; having, at the worſt, Six* Months *to turn our Eyes about, and many Helps to be gain'd in that ſpace; where, in the other Caſe, the Contribution ending in* December *next, we ſhould be put upon an inſtant of Time, to read our Leſſon at the firſt ſight.*

Then, the calling of a Parliament, *and determining of the Quarterly Payments falling out much upon one, might make them apprehend, there was a neceſſity enforcing a preſent Agreement, if not the good one we would, yet the beſt we could get; and ſo embolden them to make, and flatter themſelves to gain their own Conditions; and Conditions are not to be admitted with any Subjects, leſs with this People, where Your Majeſties abſolute Sovereignty goes much higher, than it is taken (perhaps) to be in* England.

And laſtly, There being ſome of Your Majeſties Graces, which being paſſed into Laws, might be of great prejudice to the Crown; and yet it being to be fear'd, they will preſs for them all, and it's uncertain what humor the denying any of them might move in their Minds: I conceive, under favour, it would be much better to make two Seſſions *of it, one in*

An. 1633. *in* Summer, *the other in Winter; in the former to ſettle Your Majeſties* Supply; *and in the latter, to Enact ſo many of thoſe Graces, as in Honour and Wiſdom ſhould be judged equal; when the putting aſide of the reſt might be of no ill conſequence to other Your Royal Purpoſes.*

All the Objections I am able to ſuggeſt unto my ſelf are Two: That it might render fruitleſs the intended Improvement upon the concealments, and prejudice the Plantations of Connaght *and* Ormond. *The firſt may eaſily be helped by a ſhort Law propounded in my Diſpatch to my Lord* Treaſurer; *and* Poſito, *that there do no other Law paſs the firſt* Seſſion, *the ſecond is likewiſe ſufficiently ſecur'd.*

Then it is to be foreſeen what Your Majeſty will demand; how to induce, and purſue the ſame, for the happy ſettlement of the Regal Rights, *and Powers in this more ſubordinate Kingdom.*

My Humble Advice is, to declare at the firſt opening of the Meeting, *that Your Majeſty intends, and promiſes Two* Seſſions: *This former for Your ſelf; that latter in* Michaelmas Term *next for them. This to aſcertain the Payments of Your Army, and to ſtrike off the Debts of Your* Crown; *That for the Enacting of all ſuch profitable and wholeſome Laws, as a moderate and good People may expect from a Wiſe and* Gracious King.

That this being the order of Nature, Reaſon, and Civility, Your Majeſty expects it ſhould be intirely obſerv'd, and Your ſelf wholly intruſted by them; which they are, not only to grant to be fit in the general Caſe of King and Subjects, but ought indeed to acknowledge it with Thankfulneſs due to Your Majeſty in particular, when they look back, and call to mind, how for their eaſe You were content to take Sixſcore Thouſand Pounds *(which their Agents gave to be paid in Three) in* Six Years; *and not barely ſo neither, but to double Your* Graces *toward them the whilſt, which they have enjoyed accordingly much to their Advantage, and greatly to the loſs of the* Crown.

And that conſidering the Army hath been repreſented over to Your Majeſty from this Council, and in a manner from the Body *of this whole* Kingdom, *to be of abſolute Neceſſity, to give comfort to the quiet Minds in their honeſt Labours, to contain the Licentious Spirits within the modeſt Bounds of Sobriety; It conſiſts not with Your Majeſties Wiſdom to give unto the World, no not the Appearance of ſo much improvidence in Your own* Councils, *of ſo much forgetfulneſs in a Caſe of their Safety, as to leave that Pillar of Your Authority, and their Peace, unſetled for continuance at leaſt one Six* Months *before the wearing forth of their Contribution.*

Therefore Your Majeſty was well aſſur'd, in conformity to the Rules of Reaſon and Judgment, they would preſently grant Three Subſidies to be paid in Three years, to diſingage the Crown *of* Fourſcore Thouſand Pounds Debt, *and continue their Quarterly Payments toward the Army Four years longer; in which time it was hopeful (ſuitable to Your Gracious Intentions) ſome other Expedient might be found out, to maintain the Army without farther Charge to them at all; which Law paſſed, they ſhould have as much leiſure to Enact for themſelves at after, as they could deſire, either now, or in Winter. Nay, Your Majeſty would be Graciouſly pleaſed, with the Aſſiſtance of Your* Council, *to adviſe ſeriouſly with them, that nothing might remain, either unthought-of, or denied, conducing to the publick Good of this* Kingdom; *but if they*

make

9 Caroli.

make difficulty to proceed with Your Majeſty in this manner, other Counſels muſt be thought of, and little to be relied on, or expected from them.

I am not to flatter Your Majeſty ſo far, as to raiſe any hope on that ſide, that all this ſhould be granted but by preſſing both, and eſpecially the continuance of the quarterly Payments *to the* Army, *which they dread above any earthly thing. I conceive it probable, that to determine and lay aſleep (as they think) the Contribution, and in acknowledgment of Your Majeſties happy acceſs to the Crown, they may be drawn to a preſent gift of three* Subſidies, *payable in three years, which alone would keep the Army on foot, during that time; and if my Calculation hold, almoſt diſcharge the debt of the Crown beſide.*

For thus I make my Eſtimate. The Contribution from the Country is now but twenty thouſand pounds ſterling *by the* Year; *whereas I have good Reaſon to truſt, each Subſidie will raiſe* thirty thouſand pounds ſterling, *and ſo there will be* 10000 *l. for three years, over and above the eſtabliſhment which* thirty thouſand pounds ſterling, *well and profitably iſſued, will (I truſt) with Honour to Your Majeſty, and Moderate ſatisfaction to the Parties, ſtrike off the whole* fourſcore thouſand pounds Iriſh, *which in preſent preſſeth ſo ſore upon this Crown.*

And then, Sir, after that in Michaelmas Term *all Beneficial Acts for the Subject be thought of, as many, no fewer, nor no more Enacted than were fit in Honour, and Wiſdom to be granted; If for a Concluſion to this* Parliament *we could gain from them other two* Subſidies, *to buy in Rents and Penſions to ten thouſand pounds yearly value (a thing they are inclinable unto, as is mentioned in my Diſpatch to the Lord* Treaſurer) *I judge there were a happy iſſue of this* Meeting; *and that it ſhould through God's Bleſſing appear to the World in a few years, You had without charge made a more abſolute Conqueſt of this Nation by Your Wiſdom, than all Your Royal Progenitors have been able to accompliſh by their Armies, and vaſt expence of Treaſure and Blood.*

Theſe being the ends in my poor Opinion, which are to be deſired, and attained; the beſt means to diſpoſe and fit all concurring cauſes thereunto, are not to be forgotten; and therefore as preparatives, I make bold to offer theſe enſuing particulars.

It ſeems to me very convenient, a Committee *be forthwith appointed of ſome few of us here, to take into conſideration all the Bills intended, when there was a Parliament to have been called in the time of my Lord* Faulkland; *Such as ſhall be judged beneficial to make them ready; ſuch as may be of too much prejudice to the Crown, to lay them aſide, and to draw up others, which may chance to have been then omitted. This Work may be by the* Committees, *either quickned or foreſlown, as the* Parliament *proceeds warmer, or cooler in Your Majeſties ſupplies.*

Next, That Your Majeſties Acts of Grace *directed to my Lord* Faulkland *the* 24th *of May* 1628, *may be conſidered by ſuch of Your Council in* England, *as ſhall pleaſe Your Majeſty to appoint; there being many matters therein contained, which in a Law would not ſo well futurely ſort with the Power requiſite to be upheld in this Kingdom, nor yet with Your Majeſties preſent profit; which hath perſwaded me to except againſt ſuch, as I hold beſt to be ſilently paſſed over, and tranſmit a Paper thereof to my Lord* Treaſurer.

It

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It is to be feared, the meaner sort of Subjects here live under the pressures of the great men, and there is a general Complaint, that Officers exact much larger Fees than of right they ought to do. To help the former, if it be possible, I will find out two or three to make examples of; and to remedy the latter, grant out a Commission *for examining, regulating and setting down Tables of Fees in all your Courts; so as they shall find Your Majesties Goodness and Justice, watching and caring for their protection and ease, both in private, and publick respects.*

I shall indeavour the Lower House *may be so composed, as that neither the Recusants, nor yet the Protestants shall appear considerable, more one than the other, holding them as much as may be upon equal Ballance; for they will prove thus easier to govern, than if either party were absolute. Then would I in private Discourse shew the* Recusant, *that the Contribution ending in* December *next, if Your Majesties Army were not supplied some other way before, the twelve pence a Sunday must of necessity be exacted upon them; shew the Protestant, that Your Majesty must not let go the* twenty-thousand-pounds-Contribution, *nor yet discontent the other in matter of Religion, till the Army were some way else certainly provided for; and convince them both, that the present* quarterly payments *are not so burthensom, as they pretended them to be; and that by the Graces they have had already more benefit, than their mony came to. Thus poising one by the other, which single might perchance prove more unhappy to deal with.*

I will labour to make as many Captains, *and Officers* Burgesses, *as possibly I can, who having immediate dependence upon the* Crown, *may almost sway the Business betwixt the two Parties, which way they please.*

In the Higher House *Your Majesty will have, I trust, the Bishops wholly for You. The* Titular Lords, *rather than come over themselves, will put their proxies into such safe hands, as may be thought of on this side; and in the rest Your Majesty hath such Interest, what out of duty to the Crown, and obnoxiousness in themselves, as I do not apprehend much any difficulty among them.*

To these, or any thing else directed by Your Majesty, I will with all possible diligence, apply my self so soon as I shall understand Your pleasure therein; most humbly beseeching, You will take it into Your Gracious Memory, *how much Your Majesties speedy Resolution in this great Business imports the prosperity of Your Affairs in this place, and in that respect vouchsafe to hasten it, as much as conveniently may be.*

In this Dispatch the Deputy also writ to His Majesty Considerations tending to the Government of the Church, *&c.* In these words,

May it please Your Sacred Majesty.

Considerations tending to the better Government of the Church and Clergy in this Kingdom, I offer in a Letter herewith sent to my Lord's Grace of Canterbury.

THE present mean condition of this Army, and the necessary course to be held in the speedy Reformation thereof, I fully now set forth in my dispatch to Mr. Secretary *Cook*.

The

9 Caroli.

The ſtate of Your Majeſties Revenue, the Annual Iſſues of Your Treaſure, and the debt charged upon this Crown upon my coming to the Government; the Propoſitions humbly offered by me, for the bettering Your Majeſties Affairs in this particular, together with a way of raiſing a conſtant great Rent forth of the Salt, I have at this time alſo tranſmitted to my Lord Treaſurer; of all which I beſeech Your Majeſty at Your beſt leiſure be pleaſed to take a ſummary account.

Now I truſt the importance and weight of this incloſed Diſcourſe, will recompence for the length thereof, and obtain my pardon, albeit I preſume thus to preſent it immediately to Your Sacred Hands; for indeed I take it to be no leſs than the Ground-plot, whereupon to ſet and raiſe ſafety and quiet to this Kingdom, as it ſtands in relation within it ſelf, ſecurity and profit, as it is in dependence to the Crown of *England*.

And therefore I do moſt humbly beſeech Your Majeſties quickning Spirit may move upon theſe Waters, that we may from Your Directions receive Life, and from Your Wiſdom borrow Light to guide and conduct us along in the way we are to take towards the accompliſhment of ſo happy a Work.

God Almighty aſſiſt You in theſe, and all other Your Counſels, and long preſerve Your Majeſty in full Power and Greatneſs, *&c.*

Dublin Caſtle,
Jan. 22.
1633.

As in the life time of the greateſt Prelate of this Kingdom, *William Laud*, Arch-Biſhop of *Canterbury*, the Vulgar ſort would be caſting out reflective paſſages againſt him; ſo that Libelling humour was alſo continued after the death of *William Noy* the Kings Attorney General, the greateſt and moſt famous Lawyer of that age; for after his Deceaſe, (who departed this Life the 9*th* of *Auguſt* this Year) Papers were put upon Poſts, reflecting on him, that his Body being opened there was found in his Head a bundle of Proclamations, in his Maw Motheaten Records, and in his Belly a Barrel of Soap.

Septemb. 19.

To the moſt Reverend Father in God, Our right truly, and right entirely beloved Counſellor, *William*, Lord Arch-Biſhop of *Canterbury*, Primate and Metropolitane of all *England*.

Charles Rex,

The Kings Letter to the Arch-Biſhop of *Canterbury*.

MOST Reverend Father in God, right truly, and right entirely beloved Counſellor, We greet you well. There is nothing more dear to Us than the preſervation of true Religion, as it is now ſetled and eſtabliſhed in this Our Kingdom, to the honour of God and the great comfort of Our ſelves, and Our loyal people; and there can nothing more

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None to be a Minister without a Title.

more conduce to the advancement thereof than the strict observation of such Canons of the Church as concern those that are to take Orders in their several times; more especially of keeping that particular Canon, *which enjoyns, that no man be made a Priest or a Minister without a* Title: *For we find that many not so qualified, do by favour of other means procure themselves to be ordained, and afterwards for want of means, wander up and down to the scandal of their Calling; or to get maintenance fall upon such courses as are most unfit for them, both by humouring their Auditors, and other ways altogether unsufferable. We have therefore thought fit, and we do hereby streightly require and charge you to call such Bishops to you as are now present, in, or near Our City of* London, *and to acquaint them with this Our Resolution; And further, that you fail not in the beginning of the next Term to give notice of this Our Will and Pleasure openly in Our* High Commission Court, *and that you call into Our said Court every Bishop respectively that presume to give Orders to any man that hath not a Title, and there to censure him as the Canon aforesaid doth enjoyn (which is to maintain the Party so ordered till he give him a Title) and with what other censure you in Justice shall think fit. And Our further Will is, that nothing shall be reputed a Title to enable a man for Orders, but that which is so by the ancient course of the Church, and the Canon Law, so far forth as that Law is received in this Our Church of* England. *And as you must not fail in these Our Directions, nor in any part of them, so We expect that you give Us from time to time a strict account of your proceedings in the same.*

Given under Our Signet at Our Palace in *Westminster*, the 19*th* day of *September*, in the ninth Year of Our Reign.

In pursuance of this Letter, the Arch-Bishop of *Canterbury* writ to the several Bishops of their respective Dioceſſes, to pray and require them, that at all times of Ordination, they be careful to admit into Holy-Orders none but such men as for Life and Learning are fit, and which have a Title for their Maintenance, according to the Law and antient Practice of the Church; and the Arch-Bishop declared what shall be a Title according to the Canon, which these persons Ordained must have.

1. A Presentation to some Eccleſiastical preferment.

2. Or, A Certificate undoubted, that he is provided of some Church void there.

3. Or, A Grant of some petty Canons Place, or the like, in a Cathedral or a Collegiate Church.

4. Or, A Fellow, or in the right of a Fellow, in some Colledge in *Oxford* or *Cambridge*.

5. Or, A Conduct of Chaplain in some Colledge in *Oxford* or *Cambridge*.

6. Or, A Master of Arts of Five years standing, living at his own Charge in either of the Universities.

7. Or the intention of the Bishop that Ordains, shortly to admit him to some Benefice or Curates place then void.

And

9 Caroli.

And I think the Canon intends, that after a Man is once admitted a Curate, the Parſon or Vicar of the Place ſhould not have power to put them off at pleaſure, but only for ſuch criminal Unworthineſs as might deprive him of his Benefice, if he had one.

By reaſon of theſe ſtrict Rules, no Lecture whatſoever was admitted to be a Canonical Title, and ſo all Ordinations of Miniſters to ſupply Lectures was totally ſecluded; alſo no Chaplainſhip to any Noblemans Family was allowed to be a ſufficient Title.

In the Month of February, *in* Hilary *Term, upon an Information in the* Star-Chamber *againſt Sir* David Fowlis, *Sir* Thomas Layton, *and* Henry Fowlis *Eſq; Defendants, the Cauſe came to Hearing.*

The Information being opened to the Court was to this effect.

Sir *David Fowlis*, &c. queſtioned in the *Star-Chamber.*

THat whereas ſeveral *Commiſſions* had iſſued lately out of His Majeſties Court of *Exchequer* in the *6th*, *7th*, and *8th Year* of His Majeſties Reign, directed to the Lord Viſcount *Wentworth*, and to divers other Lords, Knights, and Gentlemen of the beſt and principal Rank and Quality in thoſe Northern Parts, who were thereby Authoriz'd for the more eaſe of the *Country*, to Treat, Commune, and Compound with all and ſingular his Highneſs's Subjects of the *City* and *County* of *York*, and other Northern Counties therein particularly expreſſed, as would make Fine with His Majeſty for their Contempts in not attending His Majeſties Coronation, to have taken the Order of *Knighthood*, as they ought to have done; and the ſaid Lord Viſcount *Wentworth* was by expreſs *Letters* from His Majeſty in that behalf ſpecially appointed to be Collector: And albeit the ſaid Sir *David Fowlis* had received many Gracious Favours both in Honour and Profit, as well from King *James*, as His now Majeſty, which might juſtly have incited and ſtirred him up to all dutiful and grateful Thankfulneſs for the ſame; nevertheleſs the ſaid Sir *David Fowlis* moſt undutifully, and ingratefully, did not regard the ſame, but harbored ſome ſecret diſcontentment, and ill affection in his Heart: for when as the ſaid Lord Viſcount *Wentworth*, and other His *Majeſties Commiſſioners*, carefully and dutifully intended the due Execution of His *Highneſs's* ſaid *Commiſſions*, and had by vertue thereof ſummoned, and given notice to *Ralph Ewre*, *James Penniman* Eſquires, and ſundry others dwelling and inhabiting near unto the ſaid Sir *David Fowlis*, to attend the ſaid Commiſſioners at the ſaid City of *York*, for their Compounding for their ſaid *Fines* of *Knighthood*; the ſaid Sir *David Fowlis* moſt undutifully endeavoured and practiſed what he poſſibly could, to oppoſe His *Majeſties* Service therein, and to diſſwade and divert perſons from Compounding with the ſaid *Commiſſioners*, and many times publickly declar'd his diſlike and diſaffection of, and to the ſaid Service, which was generally obſerv'd and noted throughout the Country where he dwelt: which was by him ſo ſpoken of intent and purpoſe, to cauſe Men to forbear and refrain Compounding, or reſorting to the ſaid *Commiſſioners*, to make any Compoſi-

An. 1633. tion for their aforeſaid Contempts; and thereby animated and incouraged ſundry perſons to ſtand out, and refuſe to make any Compoſition at all, who otherwiſe would have Compounded with the ſaid *Commiſſioners* for their ſaid *Fines* of Contempt, in not attending at His *Majeſties Coronation* to take the Order of *Knighthood*, as aforeſaid. And in farther proſecution of his ill affection, and to ſhew his diſlike of the ſaid Service, and the more fully to expreſs and manifeſt himſelf, and his deſire for the hindrance thereof; he the ſaid Sir *David Fowlis*, at a Publick Meeting, at the Houſe of the ſaid Sir *Thomas Layton*, in the beginning of the *Month* of *July* 1632. did, in divers of his Conferences with Gentlemen concerning the Compounding with the ſaid Lord *Viſcount*, and the other *Commiſſioners* for their *Fines* and Contempts of *Knighthood*, publickly affirm and ſay; 'That *York-ſhire* Gentlemen had been in time 'paſt accounted and held ſtout-ſpirited Men, and would have ſtood 'for their Rights and Liberties, and were wont to be the worthieſt 'of all other Shires in the Kingdom. And that in former times all 'other Shires did depend, and would direct all their great Actions 'by that Country. And that other Counties, for the moſt part, 'followed and imitated *York-ſhire*: but now in theſe days *York-ſhire*-'Men were become degenerate, more daſtardly and more cowardly 'than the Men of other Counties, wanting their wonted Courage 'and Spirit, which they formerly uſed to have. Which ſaid Words and Speeches the ſaid Sir *David Fowlis* then uſed and uttered purpoſely, to diſſwade and diſcourage perſons from Compounding for the ſaid Contempts and *Fines* for *Knighthood*, as aforeſaid. And the more to encourage thoſe that ſtood out, and refus'd to Compound, the ſaid Sir *David Fowlis*, at the ſame time and place, extoll'd and highly commended one *James Maleverer* Eſq; for denying and refuſing to Compound with the ſaid *Commiſſioners* for his *Fines* of *Knighthood*, and ſaid; 'That the ſaid *James Maleverer* was the 'wiſeſt and worthieſt Man in the Country; and that he was a 'brave Spirit, and a true *York-ſhire-man*; and that none durſt ſhew 'himſelf ſtoutly for the Good of the Country, but the ſaid Mr. '*Maleverer*, and was to be Honoured therefore. And did very much commend him, both there, and at other places and times, for not Compounding. And the ſaid Sir *David Fowlis* being then told, it might perhaps prove more chargeable to the ſaid Mr. *Maleverer*, for his wilful ſtanding-out in that manner; the ſaid Sir *David* replied, That the ſaid Mr. *Maleverer* had put in his *Plea* 'thereunto, and would eaſily procure his Diſcharge, both of the '*Fines* and *Iſſues*. And in truth he had Pleaded in His Majeſties Exchequer an inſufficient Plea, and after ſuch time as he had paid 156 *l.* for *Iſſues*, at laſt he compounded for his *Contempt*. And farther to diſcourage and hinder Men from Compounding; The ſaid Sir *David Fowlis* then alſo alledged; That in other Counties and Shires they had not advanced their *Fines* of *Knighthood* ſo high, as was done by the *Commiſſioners* in *York-ſhire*, ſaying, that there were many in *Buckingham-ſhire* and *Oxford-ſhire*, who did utterly refuſe to Compound: and thereupon ſhewed forth a Liſt or Paper of the Names of ſundry Perſons of thoſe Two Counties, that ſo refuſed to Compound. And the ſaid Sir *David Fowlis* taking notice of Mr. *Ewre*'s, and Mr. *Pennyman*'s Compounding with the

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9 *Caroli.*

Commiſſioners, blam'd and reprov'd them for ſo doing, ſaying, *That they had by Compounding done themſelves ſome wrong, and that the Country hereafter would be much troubled with ſuch Impoſitions.* And the ſaid Sir *David Fowlis* farther, to beget and draw a general diſobedience in the Hearts of His *Highneſs's* People, and to cauſe them to deny and refuſe to Compound for their *Knighthood-Fines* with the ſaid Commiſſioners, and to draw a ſcandal upon the ſaid Lord Viſcount *Wentworth*, and to bring him into diſeſteem in the Hearts and Minds of the Gentlemen of that Country, publickly ſaid and pretended; 'That the People of *York-ſhire* did adore him the ſaid Lord 'Viſcount *Wentworth*, and were ſo timorous and fearful to offend 'his Lordſhip, that they would undergo any Charge, rather than 'diſpleaſe him; and that his Lordſhip was much reſpected in *York-*'*ſhire*, but at Court he was no more reſpected than an ordinary 'Man; and that as ſoon as his back was turn'd for *Ireland*, his 'Place of *Preſidentſhip* of the Council would be beſtowed on ano-'ther Man. And the ſaid Sir *David Fowlis*, and the Defendant *Henry Fowlis* did, about the beginning of *July* 1632. and at other times publickly, in the hearing of ſundry Knights and Gentlemen, to the end to hinder His *Majeſties* Service, and to render the ſaid Lord Viſcount *Wentworth* odious to the Inhabitants of *York-ſhire*, and the Places and Countries where he was employed as a Commiſſioner, moſt falſly and untruly ſcandalize and wrong the ſaid Lord Viſcount *Wentworth*, to have received much Money of the Country for *Knighthood-Fines*, by vertue of the aforeſaid Commiſſion; and that his Lordſhip had not paid the ſame, either to His *Majeſty*, or the *Exchequer*. The contrary whereof did plainly, clearly, and evidently appear by the ſeveral *Tallies* and *Conſtats*, which were produced and ſhewed in open Court, teſtifying that the Lord Viſcount *Wentworth* had, a year before the ſpeaking of thoſe words by the ſaid Sir *David*, and his Son, paid unto His *Majeſties* Receipts for *Knighthood-Fines* the Sum of 24500 *l.* beſides other Aſſignments by his Lordſhip diſburſed about the ſaid Service, amounting to about 700 *l.* of his own Money, and more than he had at that time received for His *Majeſty*. And the ſaid Sir *David Fowlis*, and *Henry Fowlis*, moſt falſely and malitiouſly, not only to the ſcandal of His *Majeſty* and His Juſtice, but chiefly to wrong and ſlander the ſaid Lord Viſcount *Wentworth*, reported, gave out, and affirmed in the Preſence of divers Knights, Gentlemen and others, that when the ſaid Lord Viſcount *Wentworth* was gone into *Ireland*, all ſuch as had paid their *Fines* to his Lordſhip, although they had his Lordſhips Acquittance for the ſame, yet they would and ſhould be forced to pay the ſame over again to His *Majeſties* uſe. And the Defendant, *Thomas Layton*, cauſed his Officer and Bailiff to levy about 39 *l.* *Iſſues* upon the Goods of one Mr. *Wivel*, who formerly Compounded and paid his *Fine* for *Knighthood*, and had his Lordſhips Acquittance for the ſame; and that Complaint had been made to the *Council* at *York*, in the abſence of the ſaid Lord *Preſident*, that the ſaid Sir *Thomas Layton's* Officers or Bailiffs had by his privity exacted and taken 40 *s.* worth of the ſaid *Wivel's* Tenants Goods, by colour of the ſaid *Levy*, for ſo levying of the ſaid *Iſſues*, whereby the ſaid *Council* conceived, that the ſame would much croſs and oppoſe His *Majeſties* ſaid Service, and the Exaction

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was meet to be puniſhed: and therefore did award, and ſend the *King's Letter* to the ſaid Sir *Thomas Layton* (being then *High-Sheriff* for the County of *York*) for to appear, and anſwer an Information Exhibited againſt him, and his Servants, for ſuch their ſuppoſed Exactions in that behalf, as was lawful for the ſaid *Council* to do; and cauſed the ſaid Sir *Thomas Layton* to be ſerved therewith, who immediately ſhewed it to the ſaid Sir *David Fowlis*: Then the ſaid Sir *David Fowlis* thereon took upon him in a great Preſence and Aſſembly of divers Knights and Gentlemen of the County (himſelf being then one of His Majeſties ſworn Council in the ſaid *Northern* Parts, one of the *Deputy-Lieutenants* there, and a *Juſtice of Peace* in the *North-Riding*, where he then dwelt) to adviſe and diſſwade Sir *Thomas Layton* to yield obedience to His *Majeſties Letter*, which this Court held to be a great Contempt, and Offence; for that he ſaid, that he held it not fit, that the ſaid Sir *Thomas Layton*, being *High-Sheriff*, ſhould appear and anſwer the ſaid Letter, before he had acquainted His *Majeſty* firſt therewith, and known the King's Pleaſure. The ſaid Sir *David* ſaying farther, (in ſcorn and contempt of the ſaid Court and *Council*, whereof himſelf was a Member, and by his Oath bound to maintain and uphold the Rights and Liberties thereof to his uttermoſt) 'That 'the ſaid Court was a *Paper-Court*, and the ſaid Lord *Preſident*, 'and *Council*, had done more than they could juſtifie, by ſending 'for the ſaid *High-Sheriff*; and that, if he were in the Sheriffs 'caſe, he would not care a Dog's Turd for them. And the more to draw the Council into diſeſteem and diſreſpect in thoſe Parts, he the ſaid Sir *David* then alſo ſaid, That the ſaid Council had nothing to do with a Juſtice of Peace; ſpeaking withall comparatively, That the Office of a Juſtice was above the Council at *York*; the one (meaning a *Juſtice of Peace*) was by Act of *Parliament*, the other (meaning the Court at *York*) was made but by *Commiſſion*. And alſo the ſaid Sir *David* being reprov'd by ſome Gentlemen there preſent, who much diſliked his Diſcourſe, yet he anſwer'd, *He car'd not who heard it, nor if it were proclaim'd at the Croſs.*

The Anſwer of Sir *David Fowlis.*

To this Information Sir *David Fowlis* made this Anſwer; 'That 'he hath been ſo far from oppoſing the Commiſſion concerning '*Knighthood*, as that he hath, according to his Power, advanced 'the ſaid Service; and that he did perſwade *James Maleverer*, and 'others to ſubmit to the Commiſſioners, and Compound for their '*Fines*. That he did perſwade Sir *Thomas Layton* to appear before 'the Lord *Wentworth*, and the *Council*, upon the *King's Letter*, and 'denieth the words charged upon him. He confeſſeth he did ſay, 'that he knew not how His Majeſty would take it to have a *High-*'*Sheriff* Committed, and diſgraced for executing His *Majeſties* '*Writ*: and confeſſeth, that it appears by the Information, that 'Mr. *Wivel* had made his Compoſition for *Knighthood*, and that he 'receiv'd his Acquittance; nevertheleſs Proceſs was awarded out of 'the *Exchequer* for levying *Iſſues*, amounting to 30 *l.* or thereabout: 'whereupon this Defendant did ſay, That if the Lord *Wentworth* 'had paid in all the Monies he had receiv'd, he might have done 'well to have taken order, that thoſe who had paid their Money

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9 *Caroli.*

'to him, ſhould be free from any trouble, and not be compell'd to 'make double payment.

Henry Fowlis *Pleaded Not Guilty.*

Sir *Thomas Layton's* Defence.

'SIr *Thomas Layton* for himſelf ſaith; 'That a Letter was ſer-'ved upon him from the Lord *Preſident* and *Council*, he being 'then *High-Sheriff* of the *County*, doing matters in the execution 'of his Office; and that before he was in any Contempt, he was 'within Three days *Arreſted* by the *Purſivant* attending the *Court*, 'and by him carried Priſoner from his own Houſe to the ſaid *Coun-'cil*, about Thirty Miles, and there remain'd in the Cuſtody of the 'ſaid *M. Ieſſenger*, till he had anſwer'd an Information there preferred 'againſt him, and Interrogatories concerning the ſelf-ſame matter 'now charged upon him; and before he was diſcharg'd, paid the 'ſaid *Wivel* the Money levyed by vertue of the Proceſs, and alſo 'paid 40 *s.* more, which (as was pretended) *Appleby*, the Bailiff, 'exacted from the ſaid *VVivel.*

'During all which time of this Defendants reſtraint, he was '*High-Sheriff* of the *County* of *York*, of all which he deſireth a Con-'ſideration might be had; albeit he might juſtly Plead the De-'pendence of the Suit at *York*, yet he doth wave the ſame; and 'doth deny, that if the ſaid 40 *s.* were exacted by the ſaid Bailiff, 'over and above the 39 *l.* levied upon Mr. *VVivel*, that the ſame, or 'any part thereof came to this Defendant.

And it plainly appear'd to this *Honourable Court*, by good and ſufficient Teſtimony then openly read; that all the Particulars be-fore-mentioned, wherewith Sir *David Fowlis* ſtood charged by the Information, were fully proved againſt him: whereupon the Court, upon grave and deliberate conſideration of all the aforeſaid Premiſſes, declared; *That the ſaid Sir* David *had many ways endea-voured and ſought to oppoſe His Majeſties Service, and had withall great-ly and highly thereby ſcandaliz'd His Majeſty, who had done him ſo many Gracious Favours, and affronted His Service, and had unjuſtly traduced His Majeſties Commiſſioners, and great Officers of State, and ſhewed exceeding malice to the Lord Deputy: And the ſaid Sir* David *ſpeaking theſe words charged upon him, to deter His Majeſties Subjects from making Payment of their* Fines *to His Majeſties Receiver, for Knighthood-mony: And that the Court duly weighing and conſidering the hainouſneſs of the ſaid Defendant's Offence therein, and declaring the ſame worthy of ſevere and extraordinary puniſhment, ordered:*

The Judgment of the Court.

That the ſaid Sir David Fowlis, *being a principal Offender, ſhall ſtand, and be Committed to the* Fleet, *there to remain during His Ma-jeſties Pleaſure; and that he ſhall pay a* Fine *of* 5000 l. *to His Maje-ſties uſe; and ſhall alſo publickly acknowledge his great and ſeveral Of-fences, both to His Majeſty, and the ſaid Lord Viſcount* Wentworth; *not only in this Court, but in the* Court *of* York, *and likewiſe at the open* Aſſizes *in the ſame* County, *where this Decree ſhall be publickly read. And farther; That the ſaid Sir* David Fowlis *is a perſon al-together unworthy of the Places he holds, as one of the* Council *of* York, Deputy-Lieutenant, *and* Juſtice of Peace, *who hath breathed*

out

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out ſo much Faction and Diſobedience; and for that he ſought and endeavoured to draw diſeſteem and ſcandal upon that Court, whereof he himſelf was a Member, and upon the principal Officer and Member of the ſaid Court, the Lord Wentworth, *a Noble Perſon of ſingular worth and merit, and worthily employ'd in a matter of greateſt Truſt and Importance. The Court hath therefore ordered and adjudged, That the ſaid Sir* David Fowlis *ſhall, from henceforth, be held, and made incapable to have, or execute any of the ſaid Places, and that he ſhall pay good Damage to the ſaid Lord* Wentworth, *Relator in this Court, whom this Court highly commended for vindicating His Majeſties Honour, in ſuch a Service of ſo undoubted Right, juſtly appertaining to the Crown, and which hath been heretofore taken by many Kings, His Majeſties Predeceſſors, conſtantly and ſucceſſively: their Lordſhips generally condemned the ſaid Sir* David *therefore, and for the baſe and ſcandalous Report, that he ſo publiſhed againſt the ſaid Lord* Wentworth, *ordered and decreed, That the ſaid Sir* David *ſhould pay* 3000 l. *to the ſaid Lord* Wentworth.

And touching the Defendant *Henry Fowlis*, the Court likewiſe thought him worthy of Cenſure, and ordered and decreed, That he ſhould ſtand Committed to the *Fleet*, and pay 500 *l. Fine* to His Majeſties Uſe.

And foraſmuch as the Council urg'd no Proof againſt Sir *Thomas Layton*, they diſmiſſed him from any farther attendance.

This Year alſo, in Hillary Term, *a Cauſe came to Hearing in the Court of* Star-Chamber, *wherein* William Noy *Eſq; The King's Attorney-General, Plaintiff;* William Prynn *Eſq;* Michael Sparkes, William Buckner, *and others, were Defendants.*

Mr. *Prynn's* Cauſe in the *Star-Chamber.*

THe 7*th* of *February* Mr. *William Prynn*, utter Barreſter of *Lincolns-Inn*, was brought to the *Star-Chamber*, together with *Michael Sparkes*, *William Buckner*, and Four other Defendants, upon Mr. Attorney *Noyes* Information, which being opened by Mr. *Hudſon* of *Grayes-Inn*, did ſet forth, That about 8 *Car. Reg.* Mr. *Prynn* compiled and put in Print a Libelous Volume, Entituled by the name of *Hiſtrio-maſtix* againſt Plays, Maſques, Dancings, *&c.* And although he knew well, that His Majeſties Royal *Queen*, Lords of the *Council*, &c. were in their publick Feſtivals, and other times, preſent Spectators of ſome Maſques and Dances, and many Recreations that were tolerable, and in themſelves ſinleſs, and ſo publiſhed to be, by a Book printed in the time of His Majeſties *Royal Father*: yet Mr. *Prynn* in his *Book* hath railed, not only againſt Stage-Plays, Comedies, Dancings, and all other Exerciſes of the People, and againſt all ſuch as behold them; but farther in particular againſt *Hunting*, *Publique Feſtivals*, *Chriſtmas-keeping*, *Bonfires*, and *May-poles*; nay, againſt the dreſſing up of a Houſe with *Green-Ivy*: and to manifeſt his evil and miſchievous deſign in publiſhing of this Libel, he hath therein written divers incitements, to ſtir up the People to diſcontent,

as

9 *Caroli.*

as if there were juſt cauſe to lay violent hands on their *Prince*; and hath expreſſed in many Speeches againſt His Majeſty, and His Houſhold, infamous terms unfit for ſo Sacred a Perſon. He hath caſt an aſperſion upon Her Majeſty the *Queen*, and railing and uncharitable cenſures againſt all Chriſtian People. He hath commended all thoſe that are factious perſons, that have vented any thing in any Book againſt the *State*, as the factious Book of Dr. *Leighton*, *Jo. Mariana* a *Jeſuit*, to draw the People from His Majeſties Government, which is of a moſt dangerous conſequence to the *Realm* and *State*. His *Book* is of above 1000 *Pages*; and he dealt with one *Michael Sparkes* for the Publiſhing, Licenſing, and Printing thereof, who is a perſon that is a common Publiſher of unlawful and unlicenſed Books; and dealt alſo with Mr. *Buckner*, another Defendant for the allowing of it for the Preſs; and with the other Four Defendants to Print part of it, and Publiſh the ſame: and by this means this Volume was allowed and publiſhed, to the great ſcandal of the whole Realm; and to have this puniſhed according to the demerit of the Cauſe, is the end of Mr. *Attorney's* Information.

Mr. Atkins *of* Lincolns-Inn (*afterwards a Judge in the Court of* Common-Pleas) *opened Mr.* Prynn's *Anſwer; and Pleaded,*

Mr. *Prynn's* Anſwer in *Star-Chamber.*

That he the ſaid Mr. *Prynn*, taking into his ſerious Conſideration the frequent reſort of ſundry ſorts of People to common Stage-plays about the City of *London*; and having read divers *Councils*, *Laws* and *Statutes* of this and other Realms, againſt the frequenting of common Stage-plays, and the Judgment and Opinion of ſeveral Divines, and other Ancient Authors, and divers *Engliſh* Writers allowed by publick Authority, and his own Judgment running with thoſe; not intending to reflect, or to have relation to the *King*, *Queen*, *State*, or *Government*, or your Lordſhips, did about Seven years ago compile this Book Entituled *Hiſtrio-maſtix*; which is no more but a *Collection* of divers Arguments and Authorities againſt common *Stage-Plays*. That about Four years ſince he did commit the ſame to *Michael Sparkes*, one of the Defendants, to be commended to ſuch Perſons as then had Authority to Licenſe Books for the Preſs. *Sparkes* did carry it to Mr. *King*, belonging to the late Arch-biſhop of *Canterbury*; and before he had perus'd this Book, Mr. *Buckner* had Authority to allow of the Books to the Preſs: *Sparkes* brought this Book to Mr. *Buckner*, who kept it by him Three Months, in which time he did fully peruſe it. In the interim, he gave part of the Book to *Sparkes* to print, and kept the reſt till he had perus'd it, and ſaid that he ſhould have that alſo to the Preſs. In *October* following he carried this Copy with the Licenſe, and cauſed them to be entred into *Stationers-Hall*, and did compound with thoſe that had Authority for the Printing of this Book. It was printed publickly, and not ſecretly; and becauſe there were ſome of the Copies cloſe written, he cauſed thoſe to be brought again to peruſe, to the intent that he might not be deceived in them; and as he ſaw cauſe, corrected them accordingly. That in *Eaſter Term* was Twelve-month, the *Epiſtle*, and the whole firſt

An. 1633. firſt part of the *Book* was printed; and he had time to examine it between *Eaſter Term* and *Trinity*, and then he did make ſuch Alterations as he ſaw cauſe, *viz.* in *Page* 711. *&c.* and afterwards the *Second Part*, and Two Sheets of the *Index* of the *Book* was likewiſe Printed, and theſe were likewiſe brought to Mr. *Buckner*; ſo that the whole *Book*, with the *Index*, was bound up about *Chriſtmas* following, which was *Chriſtmas* was a Twelve-month. Mr. *Buckner* ſent for Mr. *Prynn*, and the *Stationer* was deſirous that the Book might be Publiſhed, and that he might ſend ſome Volumes to him; but Mr. *Buckner* ſaid he could wiſh the word (*Pity*) in ſuch a Page might be left out, and I wiſh with Mr. *Buckner*, that *Pity* may be added to every Page of the *Book*. So when Mr. *Prynn* ſaw all this from him, that had Licence to allow Printed Books, he conceived it a ſufficient Warrant for his Proceedings. And for that which is alledged in the Information of Mr. *Prynn's* commending Dr. *Leighton*, for which the Dr. receiv'd a Cenſure in this Court, in the Quotation whereof, *viz.* his Book, and of others, he adhereth to their meaning ſo far as, and wherein they are agreeable to the Law; and this *Book* was printed long before Dr. *Leighton* was queſtion'd in this Court. And as for encouraging of others to be factious or ſeditious, he ſaith upon his *Oath*, That he was ſo far from Diſloyalty, Schiſm, or Sedition, or neglect of the *King*, *State*, or *Government*, that he hath with much Joy, Cheerfulneſs, and Thankfulneſs to God, ever acknowledged his, and the reſt of the King's Subjects Happineſs, by the Peace we have under His Majeſties happy Government; and this Anſwer and Intention is ſincere, though other conſtruction be made thereupon. He ſaith he hath taken his *Oath* of *Supremacy* and *Allegiance* in the *Univerſity* and *Inns of Court*, where he hath taken his Degrees. That it never came into his thoughts to approve of Schiſm or Sedition: and if any thing in his Book, contrary to his meaning, hath a miſ-conſtruction towards His Majeſties Government, State, or your Lordſhips, he doth proſtitute himſelf at His Majeſties *Royal Feet*, and crave Pardon and Grace. And he doth appeal to your Lordſhips Interpretations of thoſe Parts of his *Book*; and doth withal deſire your Lordſhips favour, and to take it into your Conſideration, that he hath been a year Priſoner in the *Tower*: and this is the ſubſtance of his Anſwer.

Mr. Jenkins *of* Grayes-Inn *opened the Anſwer for Four of the Defendants.*

Firſt, for the Poor Widow he ſaith, for any manner of combination, or knowledge of this *Book*, or of the Contents of it *&c.* ſhe knoweth nothing. For the reſt, they all ſay, they being Illiterate, were not able to judge, whether it were fit to paſs the Preſs, or not; That the *Book* was *Licenſed* to be Printed, allowed after it was Printed, and before it was Publiſhed, and it was Entred in the *Stationers-Hall*, and the *Warden* there allowed and ſubſcribed it to be a Book paſſable. The Book hath been three years in the *Preſs*. All this time was ſpent before it was printed: there were Searches made during this time, and they came unto the Preſs. They ſaw the Book there in a publick way, and not in Corners, or private-

privately Printed, as is alledged in the Information; and it was Printed and Publiſhed, and ſome of the Books ſold by *Sparkes*: and *Sparkes* ſaith the Printing of this Book coſt him almoſt 300 *l.* and ſaith upon his Oath he ſold not many Books. 9 *Caroli.*

And for the Charge upon him *of being a common Printer of unlawful Books*, he ſaith, he hath proſpered in his Calling; and ſome other *Stationers* having an Eye upon him for his thrift, have envied him in publiſhing of Books; and leaveth it to my Lords the Biſhops, to know what ſucceſs he hath had in the *High-Commiſſion.*

Mr. *Lightfoot* of *Grays-Inn* opened Mr. *Buckners* Anſwer.

He ſaith, that he was *Chaplain* to the late Arch-Biſhop of *Canterbury*, and doth approve of the Church without any ſcruple, and of all the Ceremonies of *England.* Church-muſick he doth allow of; bowing at the Name of *Jeſus*: Plays, Muſick and Dancing, he doth eſteem them juſt and lawful. And for thoſe Cenſures againſt Eccleſiaſtical Perſons in this *Book*, he doth, and ever did abhor and deteſt them. He confeſſeth he Licenſed part of the Book, but never gave order to diſperſe the Book: but when he heard it was publiſhed, he did endeavour to ſuppreſs it; and to the reſt of the Information pleadeth *Not Guilty.*

Then Mr. Noy Attorney-General *ſpake as followeth.*

Mr. *Noy* pleads againſt Mr. *Prynn.*

This Volume of Mr. *Prynns* is written by himſelf without the help of any man. There are paſſages in it that reflect upon the King, State and Government, *&c.* other things reflect upon the Church and Clergy; but for that there is no Charge in the Information, which I did conceive fitter to be left out, and withal I received a Command for the ſame: therefore finding the Church ſo deeply wounded by Mr. *Prynn*, I do leave Her to avenge Herſelf of him, and to inflict ſuch puniſhment on him as he deſerves. I ſhall be an humble ſuitor to the Court, that they would be pleaſed to commend the proſecution of thoſe things that concern the Church to the *High-Commiſſion.* There are divers particulars wherewith he is not charged within the Information by way of Crime, and ſo it is not proper now to bring him into queſtion for them: as for mentioning of Ceremonies, *&c.* of Dedicating *Paul's* to *Diana*; of the Diſcipline of the Church; the complaint of new-erected Altars. I wonder what Altars he means, I hope the Church will examine him in due time; as alſo who he means by his *Modern Innovators* in the Church, and by Cringing and Ducking to Altars, a fit term to beſtow upon the Church; he learned it of the *Canters*, being uſed among them. The Muſick in the Church, the charitable term he giveth it is, Not to be a Noiſe of Men, but rather a *Bleating of Bruit Beaſts*; *Choriſters bellow the Tenor*, as it were *Oxen*; bark a *Counter-point* as a *Kennel* of *Dogs*; roar out a *Treble*, like a ſort of *Bulls*; grunt out a *Baſe*, as it were a number of *Hogs*: his complaint for ſuppreſſing Repetitions by way of Conventicles; alſo his general Cenſure of all the Biſhops, and of all the Clergy; they ſcorn to feed the Poor; the *Silk and Satin Di-*

An. 1633. *vines*; very charitable terms upon them of the Church! *Chriſtmas*, as it is kept, is a *Devils Chriſtmas*; nay he doth beſtow a great number of pages to make men affect the name of *Puritan*, as though Chriſt were a *Puritan*, and ſo he ſaith in his *Index*. Then concerning the Images in the Church, he ſpeaketh againſt them, and putteth that now in Print, which was contained in an Anſwer in this Court. Alſo for the *Sabbath-day*, whether to begin on *Saturday night*, and end on *Sunday* at ſix of the Clock. Theſe are things proper to the examination of the Church; and whatſoever becometh of the reſt of the Cauſe in this Court; yet I commend theſe things to the Conſideration of the Church. I wonder what the man means to bring theſe things under the Title of *Stage-Players*; *Pluralities* under the Title *Stage-Players*. *He had an end in it; he had an end in it.*

Now concerning the Book it ſelf.

This Book, ſaid Mr. *Noy*, it is the witneſs, it doth teſtifie what was his intention, and by the Book he is to be judged. If it had been found in the Street, and of Mr. *Prynns* Compiling, and brought to this Court, and conſideration taken of it, the Court would proceed without a Party againſt Mr. *Prynn*. And here Mr. *Attorney* recited a Precedent of one that wrote a *Book*, and it was brought to the Council. It was demanded who was the *Accuſer?* Anſwer was made, the *Book* was the Accuſer. Shall the Heretick go unpuniſhed? This Book it is Mr. *Prynn*'s doing, he doth put his Name to it, he ſwears that he did write it all.

Then for the time of Compiling it; ſeven or eight *years* ago it was Compiled, and is grown ſeaven times bigger than at the firſt. Mr. *Prynn* about eight *years* ſince ſhewed it to Dr. *Goade*, who told him ſo good cauſes of diſlike, that might make any reaſonable man give it over. About ſeven years ago he came to Dr. *Harris* to deſire his opinion of the Book; and he told him it was unfit, and unworthy to come to the *Preſs*. In the Parliament-time, before the *year* 1630, he gave ſome part of it to be Printed; but it came not to Mr. *Buckner* long after. *Sparks* ſaid he would Print any thing in *Parliament*-time.

Now we are to Conſider two things, from the firſt Compiling and Printing of this Book, to the laſt.

Firſt, how it grew in Volume; for after it was delivered to the *Preſs*, it hath grown up with divers things, which then were impoſſible to be known at that time, when it was delivered to the Preſs; which appeareth by this. In 1628 was the *Parliament*, and in 1631 St. *George* began to look abroad into the World. This man beſtows eight whole pages upon St. *George*, for being ſo bold to look out. He ſaith, that St. *George* the *Arrian* was a *Cappadocian*, though born in *Cilicia*, a Part or Province of *Cappadocia*, &c. and that St. *George* his Advocate was an *Engliſhman* born in *Gloceſter*; and that St. *Baſil* the *Great* was Biſhop of *Cæſarea* in *Cappadocia*, the Native Country of St. *George* the *Arrian*. Certainly he could

could not tell that St. *George* would then remove himſelf abroad, or in the County of *Gloceſter*, &c. at that time: but this man did go on according to the occaſion in 1628. A Woman 1628 acted a part of a Stage-play, at *Black-friers*; he ſpends many pages about this. 9 *Caroli.*

We all know what time the Dearth was, three *years* ago, he taketh occaſion not to paſs it over. He maketh a long Diſcourſe of *Playes*, *Maſques*, &c. in the late penurious times, how they were as expenceful as the Wars were. This is to ſhew how by pieces it did grow bigger from time to time.

All *Stage-Players* he terms them *Rogues*: in this he doth falſify the very *Act* of *Parliament*, for unleſs they go abroad they are not *Rogues*. The ſame term he giveth unto Scholars Acting. Mr. *Prynn* had a purpoſe, not only in this to fall upon Stage-Plays, but upon the Body of the Common-wealth, and to infuſe it into mens minds, that we are now turning into *Paganiſm* and *Gentiliſm*. He falleth upon thoſe things that have not Relation to Stage-plays, Muſick, Muſick in the Church, Dancing, New-years-gifts, whether Witchery or not? Witchery, Church-ceremonies, *&c.* indiſtinctly he falleth upon them; then upon Altars, Images, Hair of Men and Women, Biſhops and Bonfires. Cards and Tables do offend him, and Peruques do fall within the compaſs of his Theme. St. *George* never offended him; but all this is to the end to bring a belief among the people, that we are returning back again to *Paganiſm*. His end is therefore to perſwade men to go and ſerve God in another Country, as many are gone already, and ſet up new Laws and Phancies among themſelves. Conſider what may come of it.

It may be fit enough and lawful to write againſt Plays, by men that have a Miſſion; and they muſt do their errand in mannerly Terms, and in the ſame Terms as other men expect to bear with them.

Mr. *Prynn* had no Miſſion to meddle with theſe things, to ſee whether men ſhould not return to *Gentiliſm*; the Terms which he uſeth are ſuch as he finds among the Oyſter-Women at *Billingsgate*, or at the Common Condudit. He hath raked up all the vile Terms that could be found.

Now to prove that this is Mr. *Prynn*'s Book, read Mr. *Prynn*'s Examination, Inter. 5*th* (which being read, was to this effect) That Mr. *Prynn*, without the help of any other, did Write, Pen and Compile the whole Book, called *Hiſtrio-maſtix*, and the *Epiſtle* before the Book, and the *Index* and *Table* following.

Now for the publiſhing of this Book, it doth appear by the Depoſition of Dr. *Goade*, that about eight years ſince, Mr. *Prynn* did bring a Book to him in writing, of about a Quire of Paper, concerning Stage-Plays, to have the ſame Licenſed, but he held it unfit to be allowed; and doth well remember, that as to his Argument of the unlawfulneſs for a Man to put on Womans Apparel, he put Mr. *Prynn* this Queſtion; Suppoſe Mr. *Prynn* your ſelf, as a Chriſtian, were perſecuted by *Pagans*, think you not, if you did diſguiſe your ſelf in your Maids Apparel, you did well? Who anſwered, that he thought himſelf rather bound to yield to death than to do ſo.

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Dr. *Harris* alſo depoſed, that about ſeven years ago, Mr. *Prynn* came to him to Licenſe a *Treatiſe concerning Stage-plays*, but he would not allow of the ſame. So this man did deliver this Book when it was young and tender, and would have had it then Printed; but it is ſince grown ſeven times bigger, and ſeven times worſe.

We ſhall now prove when it went to the Preſs.

Read *Auſtin* the *Stationer* to Interrogatory the 28*th*, which being read, was to this effect; That the ſaid Book called *Hiſtrio-maſtix*, was given to this Deponent, in, or about the laſt Parliament, at which time ſeven Sheets thereof were Printed, at this Deponents *Houſe*; which this Deponent ſo Printed, at the requeſt of Mr. *Prynn* and Mr. *Sparkes*; upon Mr. *Prynn*'s information, that it was Licenſed, and that he would bring the hand of the Licenſer unto it: But this Deponent did refuſe to Print any more of the ſame.

Read *Joſeph H.* to prove that *Sparkes* would ſet upon it unlicenſed in *Parliament*-time to Inter. 26, who ſaith, that the Defendant *Sparkes* did, in the time of the laſt *Parliament*, Print, or cauſe to be Printed divers Books *without Licenſe*; whereof ſome were Mr. *Prynn*'s, ſome were Mr. *Burton*'s Works: and this Deponent hath heard *Sparkes* ſay, he durſt Print any thing in Parliament-time.

Another part of the Charge was managed by Mr. *Maſon* of *Lincolns-Inn*, reckoning up the number of *Epithets*, wherewith Mr. *Prynn* had aſperſed all ſorts of People; and he ſaid, that it was a *Libel*, not only againſt the State, but againſt every particular Perſon; and proved the Charge by divers paſſages contained in the Book, *Fol.* 201, *&c.*

Afterward Mr. *Noy* proceeded in the farther making good of his Charge againſt Mr. *Prynn.*

May it pleaſe your Lordſhips,

AS he hath fallen foul upon all Things, all Perſons, all Sexes; upon the Magiſtrates, upon the Houſhold of the *King*; ſo he hath not ſpared the *King* himſelf. I am ſorry I ſhall have occaſion to ſpeak any thing of it; but there is a great deal too much in his Book. *My Lords*, After he hath made all theſe complaints as intolerable, he falleth upon all indiſtinctly, and never taketh upon him to diſcern to make a diſtinction, that there may be a toleration, but falleth foul upon every thing, that we are falling into *Paganiſm*; men and women are naught: he ſpareth not the King himſelf, but takes upon him to teach a remedy; the remedy is worſe than the Diſeaſe. What hateful compariſons he bringeth with other Princes? As *Nero*; and ſpeaketh of the conſuming of the *Treaſure* of the *Realm* with Maſques, and of the late penurious Times; a baſe word! a declaration of Infamy upon *Princes*, with ſuch like Concluſions as theſe are. When all this is done, he teacheth the Remedy not by way of Precept, but by way of Example; invites men to read *John Mariana*, and two Grave Authors more, he ſaith men not cenſured. I am very ſorry I am to ſpeak any thing wherein

wherein the King ſhould be named, but he would not forbear it when the Pen was in his Hand; ſome of the Words are ſo Naſty that I will not ſpeak them. 9 *Caroli.*

After Mr. *Attorney-General* had ſpoken, he called for theſe paſſages, amongſt others, in *Hiſtrio-maſtix*, to be read, *viz.*

To his much Honoured Friends, the Right Worſhipful Maſters of the Bench of the Honourable Flouriſhing Law-Society of *Lincolns-Inn.*

HAving, upon my firſt arrival here in London, heard and ſeen in four ſeveral Plays (to which the preſſing importunity of ſome Ill-acquaintance drew me, while I was yet a Novice) ſuch wickedneſs, ſuch lewdneſs as then made my penitent Heart to loath, my Conſcience to abhor all Stage-Players ever ſince; and having then likewiſe obſerved ſome woful experiments of the Lewd, Miſchievous fruits of Plays, of Play-Houſes in ſome young Gentlemen of my acquaintance; who though Civil and Chaſt at firſt, became ſo Vitious, Prodigal, Incontinent, debauched (yea ſo far paſt all hopes of amendment) in half a years ſpace or leſs, by their reſort to Plays, where Whores and Lewd Companions had inveagled them; that after many eſſays of their much deſired reformation, two of them were caſt off and utterly diſinherited by their loving Parents; whom I heard oft complaining, even with Tears, that Plays and Play-Houſes had undone their Children, to their no ſmall vexation, (a good Caveat for all Young Students to keep themſelves from Play-Houſes, by theſe two Youngſters harms.) Hereupon I reſolved, out of a deſire of the publick Good, to oppugn theſe common Vice-fomenting-Evils: for which purpoſe about ſeven years ſince, recollecting thoſe Play-condemning paſſages, which I had met with in the Fathers and other Authors, I digeſted them into one intire Written Diſcourſe, which having ſince that time enlarged beyond its intended Bulk, becauſe I ſaw the number of Players, Play-Books, Play-Haunters and Play-Houſes ſtill increaſing; there being above forty thouſand Play-Books Printed within theſe two years (as Stationers *inform me) they being now more vendible than the choiſeſt Sermons; two old Play-Houſes being alſo lately re-edified, enlarged, and one new Theatre erected: the multitude of our* London *Play-Haunters being ſo augmented now, that all the Antient Devils Chappels (for ſo the Fathers ſtyle all Play-Houſes) being five in number, are not ſufficient to contain their Troops; whence we ſee a ſixth now added to them: whereas even in Vitious* Nero's *Reign there were but three ſtanding* Theatres *in* Pagan Rome, *though far more ſpatious than our Chriſtian* London, *and thoſe three two many. Hereupon I firſt commended it, being thus augmented, to the Licenſer, and from him unto the Preſs, where it hath lingred longer than I did expect; which being now at laſt brought forth into the World, in ſuch a Play-adoring Age, that is like to bid defiance to it; I here bequeath it to your worthy Patronage, to whom it was firſt Devoted, not caring how it fares abroad, ſo it may do good and pleaſe at home.*

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In the next place Mr. Attorney *Noy* cauſed to be read out of the Book of *Hiſtrio-maſtix*, ſuch Paſſages, as were ſcandalous to the *King* and Government, as *Fol.* 312, *&c.*

Mr. Atkins *in defence of Mr.* Prynn, *ſaid, That*

The Eloquence of thoſe Gentlemen who argued againſt Mr. *Prynn*, made an expoſition which was no part of his intention, in which point he would endeavour to clear him; and the way was by letting their Lordſhips know, that many paſſages in that *Book* are only *Relatively* ſpoken, and not *Poſitive*, and moſt of them are but the affirmations of other Authors of ſeveral kinds and profeſſions: as where it is ſaid, that *ſuch incarnate Devils as frequent Plays*, &c. he ſpeaketh by the way of common frequenting of Plays, leſt they prove incarnate Devils; and ſo of Ladies that caſt of their Nature and Modeſty; that is relatively ſpoken by frequenting Plays, laſcivious Dancing, *&c.* and when he ſpeaketh of thoſe in a continual propoſition, his Argument is thus;

'That which doth ordinarily (if not always) defile the Eyes, 'the Ears, and Souls both of the Actors and Spectators, by ingen-'dring, by exciting Meretricious, Luſtful, Lewd, Adulterous De-'ſires and Affections in their Hearts, or by inſtigating, by prepa-'ring, by inducting them to actual uncleanneſs, muſt needs be 'abominable and unlawful unto Chriſtians; but theſe Stage-Plays, *&c.* therefore they muſt needs be abominable. And there is none but Whores, Panders, or foul incarnate Devils, who dare control that Minor truth.

My Lords,

He doth not condemn *New-years-Gifts*, but acknowledges them to be as tokens and teſtimonies of favour and reſpect from Superiours to their Inferiours; and for dancing, (under favour) he doth not condemn it at all; he hath commended the ſame as ſingle, and dancing the Meaſures. And for dancing in great men and *Princes*, he doth proteſt it was far from his thought to compare theſe times to *Nero*'s, under ſo Pious and Religious a Prince as we have, and by whom we receive ſo much happineſs. That had been ſo impious and unworthy, that he could by no means make any Apology; but as well his Perſon as his Pen ſhould have been deteſtable, if he had made any ſuch compariſon.

And where he doth ſpeak that Dancing and Maſquing, have been near as expenceful as the Warrs, in that he means in *Henry* the *8ths* time, and not in theſe days; as I take it, he ſpeaks there of a Hiſtory, that doth expreſs the great charge in that time.

I ſhall deſire, as I did begin in the opening of his Anſwer, that he may lay faſt hold upon the Rock of the *Kings* Favour and Mercy, and Compaſſion of this Court; and what his intentions are, they are beſt known to his own heart, his expreſſions known to your Lordſhips. I cannot condemn his Heart, I will not excuſe his Pen.

This if your Lordſhips will give me leave I ſhall ſay; I have long known him in a Society of *Inns of Court*, where he has lived; and for his ordinary diſcourſes (except the matters in this Book) they

9 *Caroli.*

they have not been factious or ſeditious. But now he is before your Lordſhips, truly for my part, I compare him to the condition of an *Aſtronomer*, that fixed his Eyes ſo much upon the Stars, that he did not look to his Feet, and ſo fell into a Ditch: for his Eyes were ſo fixed upon this Subject, upon the common reſort to *Stage-Playes*, and the great abuſe that comes by them, that he forgot to look down to his hand that guided his Pen, which now bringeth him under your Lordſhips cenſure.

That I may not offend the patience of this *Court*, (the Court is full, and the expectation is great;) I will conclude with all humility, and wiſh and crave, that he who is the ſupreme Judge, may be with your Lordſhips in this matter, and may be over all your good Thoughts, Judgements and Sentences this day, in this cauſe of this poor Gentleman. And this is all I humbly offer in defence.

The next day of hearing, *Mr.* Holborn *of Councel with Mr.* Prynn, *ſpake thus:*

My Lords,

Mr. *Holborn* pleads for Mr. *Prynn.*

I am aſſigned Councellor with Mr. *Prynn*. The information is for publiſhing in Print a *Libell* or *Volume* of *Libells* againſt *King*, *Queen*, State, *&c.* *My Lords*, for Mr. *Prynn*, he doth humbly caſt himſelf at your Lordſhips Feet. For the Book, I muſt ſay, he doth humbly ſubmit himſelf to your Lordſhips; yet, *my Lords*, his heart will not give him leave to ſay, that he is guilty of thoſe groſs Offences, that are laid to his Charge. He confeſſeth himſelf to be juſtly brought before your Lordſhips for his ill expreſſions, which may prove an occaſion of ſcandal by miſconſtruction, and ſo ſome dangerous principle may be infuſed into the Subjects: And he beggeth your Lordſhips to conſider of them, according to the intentions of his heart, which were fair and honeſt, though harſh in expreſſion, that he may receive a favourable conſtruction, for that he citeth his Authors, and their Words, and not his own. And for that he medleth with matters not proper to *Stage-Plays*, as in mentioning the Sabbath, his meaning was, *Stage-Plays* upon the Sabbath day: his mentioning Habits and Recreations, was in relation to men putting on Womens Habits, and unlawful Recreation at Plays, and ſo he conceives them not altogether impertinent.

For the manner of his Writing, he is heartily ſorry, that his ſtile is ſo bitter, and his imputations ſo unlimited and general; yet in this, he was led thereunto by Authors in the like caſe, which he offers for his excuſe; he hopes his paſſion againſt theſe abuſes by *Plays* may a little plead his excuſe.

Now for the manner and matter alledged againſt him out of his own Book, in that he hopes your Lordſhips favour: he ſaith, that thoſe that are Judges of the Book for Licenſing, they are guilty of the matter, and he hopeth that this Book doth differ from all the Books brought into this Court; for here are none brought but ſuch as are Unlicenſed, and this is Licenſed: and he ſubmiteth thus to that point.

My Lords, as to the general end and intention of his Book, he ſweareth, that the general reſort unto Plays was the firſt occaſion, and his end was for the reformation of the abuſe of it, and

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no otherwiſe; and then, *my Lords*, he hopeth he ſhall not incur your Lordſhips ſevere Cenſure. He did not ſend the Book beyond the Seas to be Printed, but Printed it here, and it was three years in the Preſs, and Licenſed and publiſhed.

And *my Lords*, the Declaration to the Information of this Court, ſpeaketh ſomething to his Intentions, *viz.* to whom he dedicated this Book, and he diſperſed it himſelf to men of known integrity; and certainly if his heart had been guilty of thoſe foul crimes, he would not have preſented one of theſe Books to Mr. *Attorney Noy* himſelf. He did not abſent himſelf as one guilty of ſuch offences would have done; he was ſo far from having diſloyalty, that he doth commend the King and State, and that could not be with an intention againſt King and State. And all the charges that lye upon him for his foul intentions, are but inferences upon his Book, and conſequences, and ſuch of them only that be ſtrained, and not of neceſſity.

The next thing charged upon him is *Perjury*, for that he ſaid he ſhewed no part of this Book to any before it was ſhewn to *Sparkes*; yet it was proved by Dr. *Harris* and Dr. *Goad*, that they ſaw it many years ago. As to this he ſaith, they ſpeak only of his Book concerning *Plays*, containing a quire of Paper, and that it is true, he did ſhew them ſuch a Book; but that Book was not this Book, though they be of one Subject and matter, yet they differ much in form and frame.

Then Mr. Hern *ſpake on his behalf as followeth.*

Mr. *Hern* pleads on the behalf of Mr. *Prynn.*

My Lords,

We that are aſſigned Councel for Mr. *Prynn*, do come with great diſadvantage, both in number and Judgements, conſidering the great ability of the Kings Councel, who have ſpoken againſt us. If the conſtruction they have made be theirs, then clearly we are (as they would have us) to fall deep by your Lordſhips Sentence.

The weight of this Cauſe, and the aggravations upon it by the Kings Councel, made me the laſt day (without deſire of my Client) to crave farther time, for we durſt not then give any anſwer. All that I can now ſay is, that your Lordſhips would look upon the intentions of his Heart, in that he hath explained himſelf as fair as any man can do by his Oath; how is it poſſible to make other proof of the clear intentions of his heart, than by his Oath? His Oath is admitted as proof againſt him, in the acknowledgement of his Book; and ſhall it not be admitted to him, to clear the integrity of his heart? We beſeech your Lordſhips to look upon him, as not writing theſe things out of perverſeneſs of ſpirit, but out of the abundance of his heart tranſported with zeal againſt the growing evils, which have befaln many of this Nation, and ſome of his own acquaintance, by their frequenting of *Stage-Plays*. We that know him, muſt ſay as far as our knowledge will give us leave, that in all paſſages that have faln from him, to us he hath expreſſed himſelf full of Devotion and Duty to His *Majeſty* and the *Queen*; and ſhall humbly take leave to offer ſome paſſages out of his Book, which do bear evidence, that he doth

doth ſpeak well of both their *Majeſties*, and of the State; and that by inferences and diſtinctions there made: and what is it but Inferences made out of other paſſages of his Book, which doth reflect upon him? Which paſſages were opened by the Councel, but not read. 9 *Caroli.*

Three *Star-Chamber* days having been ſpent in the hearing of this Cauſe, the Lords ſate the fourth day to proceed to Sentence, which held till four of the Clock in the afternoon; and they paſſed ſuch ſentence on Mr. *Prynn*, as is expreſſed in the enſuing ſpeeches, which in effect comprehend all that was ſaid by others. The Court proceeds to give their Judgement.

The firſt was of *Francis* Lord *Cottington*, Chancellor of the *Exchequer*, whoſe turn was to begin firſt to ſpeak, as being in the loweſt degree of quality by his place; and commonly he that beginneth, as he openeth the matter at large, ſo he inclineth thereby many Lords to forbear making of Speeches, and only to declare themſelves to concur in Sentence with him that began firſt, or with ſome other Lord that ſpake before, as their Judgements lead them.

My Lords (ſaid my Lord Cottington.)

His Majeſties Attorney General hath brought Mr. *Prynn* before your Lordſhips, with other Defendants *Thomas Buckner*, *Michael Spark*, &c. It is for publiſhing a *Libellous Book*, or Volume of *Libels*, to the ſcandal of His *Majeſty* and the State. To my underſtanding it may be more properly ſaid, the great and high malice of Mr. *Prynn* publiſhed and declared in that *Libellous Book*; a malice expreſſed in a manner againſt all mankind, and the beſt ſort of Mankind, againſt *King*, *Prince*, *Peers*, *Prelates*, *Magiſtrates* and *Governors*, and truly in a manner againſt all things. But that which hath been more remarkable, is his ſpleen againſt the Church and Government of it; therefore for that I will not ſentence him, (becauſe Mr. *Attorney* doth forbear to proſecute againſt him, for that which belongeth to the Church,) yet it is an argument of his great and high malice: and when I conſider of that, which hath been ſo often repeated, that he writ this Book alone, ſurely he was aſſiſted immediately by the Devil himſelf, or rather he hath aſſiſted the Devil. He hath written a Book againſt the due reverence and honour, which all Chriſtians owe to our Saviour *Jeſus*, this doth convince my Judgement againſt him; but the Book (as Mr. *Attorney* ſaith,) declares the man, it is the witneſs: And if your Lordſhips obſerve the particulars and ſtile of it, you will ſay it is a ſtrange thing; the very ſtile doth declare the intent of the man, and that is (as Mr. *Attorney* ſaid,) to work a diſcontent and diſlike in the Kings people againſt the Church and Government, and diſobedience to our gracious Soveraign the King. If Mr. *Prynn* ſhould be demanded what he would have, he liketh nothing, no State or Sex; Muſick, Dancing, *&c.* unlawful even in Kings; no kind of Recreation, no kind of Entertainment, no, not ſo much as Hawking, all are damned. The very truth is, Mr. *Prynn* would have a new Government, he would have a new Church, he would have new Laws, new Entertainment, God knows what he would have; a new King he would have, and have all the peo- Lord *Cottingtons* ſentence of Mr. *Prynn*, and other Defendants.

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ple of his mind, to be diſcontented with their King and Government.

Mr. *Prynn* confeſſeth he did write the Book, and it's true he did endeavour the Printing of it, and the Publiſhing of it, this is proved very well; yea but Mr. *Prynn* had no other intention but a tenderneſs of Conſcience, he meant no hurt to the *King* or State, (as his Councel ſaid:) but Mr. *Attorney* anſwered them, that he is not the Declarer of his Intentions, he muſt be judged by the Book, by his Words, more certainly by the effect; for all good men do receive ſcandal by this Book, and all of Mr. *Prynns* humour were glad of this Book. When I conſider what kind of *Libel* it is, it is not like other Libels: other Libels have been by perſons diſcontented, ſome poor Rogues, ſcattered up and down; but here's a Libel in *folio*, and in Print, and juſtifieth it ſelf by Authors with an high hand, *That is there*, and *that is there*. And, (*my Lords,*) when I conſider thoſe high paſſages in his Book, I proteſt unto you they are things to be abhorred; they are not ſpoken relatively (as his Councel would have it) but poſitively, That *our Engliſh Ladies, Shorn and Frizled Madams, have loſt their Modeſty; that the Devil is only honoured in Dancing; that Plays are the chief delight of the Devil; that they that frequent Plays are damned, and ſo are all that do not concur with him in his opinion, Whores, Panders, foul Incarnate Devils, Judaſes to their Lord and Maſter*, &c. *Princes dancing in their own Perſons*, his cenſure of them is *Infamous*, &c. But the fouleſt of all is, *That this was the cauſe of untimely ends in Princes.*

My Lords,

Shall not all that hear theſe things think, that it is the Mercy of the King that Mr. *Prynn* is not deſtroyed? have we not ſeen men lately condemned to be hanged and quartered for far leſs matters? One (*Pinchman*) I was my ſelf imployed with others in the examining of him; he confeſſed, that the writing for which he was queſtioned was a *Sermon*, that he did intend to Preach: the words were againſt the perſon of the King, yet he never Preached it; yet becauſe he had written it with an intention to preach it, he was brought upon this point and condemned to dye. But this Book is in Print; it is againſt all Magiſtrates, and particularly againſt the *King* our Soveraign, and his bleſſed *Conſort*. And yet, my Lords, it pleaſeth his Majeſty to let Mr. *Prynn* have his Trial here. I will not trouble your Lordſhips with any more parts of the Book: Mr. *Attorney* noted unto your Lordſhips, that you ſhould ſee how neceſſary it was, that Mr. *Prynn* ſhould be clean cut off, as one that hath a long time endeavoured to move the People to diſobedience againſt the King, *&c.* So I ſay with Mr. Attorney, it is high time that Mr. *Prynn* may be cut off ſo far as may go with the cenſure of this Court. *My Lords*, Mr. *Prynn* is better dealt withal, than he would have *Princes* dealt with; he hath had very fair trials.

For his Defence, I took notice of it likewiſe, I do remember that all thoſe Gentlemen, that were imployed and aſſigned as Councel for his Defence, every one of them began to crave Mercy of the Court; yet they came with a defence and juſtification, ſo far as their cauſe would bear. Mr. *Holborn* ſaid, that for *Players they were Rogues by the Statute:* yet Mr. Attorney ſaid, *they are not*

Rogues

Rogues by the Statute, unleſs they wander, &c. *My Lords,* he ſaid, his intention was againſt *Publick* and *Common-Plays,* yet ſeek all his Book thorow, and you ſhall find it is againſt Plays in *Princes Palaces.* His intention now muſt be underſtood by his *Book,* and by his words; and that which he doth apply of any Author is his own. And I think his defence did aggravate his offence. As to his defence againſt the *Ladies,* he ſaith, he ſpeaketh it *Relatively* and not *Poſitively,* yet he ſaith, *our Engliſh Ladies are ſo and ſo whoriſh,* &c. And for that part of his Book, wherein he condemns Murder, Mr. *Prynn* will have Murder unlawful, but execution of *Princes* is not Murder, and therefore that is a lawful act. Mr. *Attorney* ſaid well, the end of this man and *John* * *Mariana,* &c. they are all one, they all cry malice againſt Princes. 9 *Caroli.* * A Jeſuite.

I ſhall humbly crave pardon, and diſcharge my Conſcience, and ſhall let your Lordſhips ſee, how I do underſtand the ſenſe, and that ſo I am to judge, and I conceive it to be as your Lordſhips ſee, that the malice in this Book is againſt *King* and *State,* and, my Lords, with this I Sentence Mr. *Prynn.*

I do in the firſt place begin Cenſure with his Book; I condemn it to be burnt, in the moſt publick manner that can be. The manner in other Countries is, (where ſuch Books are, to be burnt by the *Hang-man,* though not uſed in *England,* (yet I wiſh it may, in reſpect of the ſtrangeneſs and hainouſneſs of the matter contained in it) to have a ſtrange manner of burning; therefore I ſhall deſire it may be ſo burnt by the Hand of the *Hang-man.* Mr. *Prynns* Sentence.

If it may agree with the Court, I do adjudge Mr. *Prynn* to be put from the *Barr,* and to be for ever uncapable of his Profeſſion. I do adjudge him (my Lords) That the *Society* of *Lincolns-Inn* do put him out of the *Society;* and becauſe he had his Offspring from *Oxford* (now with a low voice ſaid the Biſhop of *Canterbury, I am ſorry that ever* Oxford *bred ſuch an evil Member*) *there to be degraded.* And I do condemn Mr. *Prynn* to ſtand in the *Pillory* in two Places, in *Weſtminſter* and *Cheapſide,* and that he ſhall loſe both his Ears, one in each Place, and with a Paper on his Head, declaring how foul an Offence it is, *viz. That it is for an Infamous Libel againſt both their Majeſties State and Government.* And laſtly, (nay not laſtly) I do condemn him in 5000 *l. Fine* to the *King.* And laſtly, *perpetual Impriſonment.*

There are other Defendants, *Thomas Buckner,* whom I conceive to be the *Chaplain* charg'd with the Licenſing of the Book. I obſerve, that Mr. *Attorney* hath little or nothing proſecuted againſt him. It is ſaid he did combine with the *Writer* and *Stationer* for this infamous Libel. It doth appear that he did Licenſe it, or at leaſt 64 *Pages* thereof; I think it be alſo true, that Mr. *Buckner* did ſee the Book after it was printed. It is ſaid, for his excuſe, That Mr. *Buckner* was cozen'd and ſurpriz'd by Mr. *Prynn* and *Sparkes,* but it's plain he Licenſed it, or at leaſt 64 Pages; therefore I ſhall judge according to the Proof, as it is the uſual Cuſtom of this Court. I muſt judge Mr. *Buckner* to be worthy of a very ſharp Sentence, for certainly there is a very great inconvenience faln upon the State, for want of due Examination: To what purpoſe *Buckners* Sentence.

An. 1633. is there an Examination of Books, if there ſhall be a connivnce and winking at the Party that doth it? I ſhall think Mr. *Buckner* not only worthy of a ſevere Reprehenſion, but I ſhall Cenſure him firſt to have Impriſonment according to the courſe of the Court, and 50 *l. Fine* to the King.

Sparkes's Sentence. Now (my Lords) the next is *Michael Sparke*, and he is the 3*d*, and he is the *Printer* of the Book, and Binder, and Publiſher thereof. In his defence he hath ſhewed your Lordſhips a piece of the Book Licenſed by Mr. *Buckner*, and ſaith it was all Licenſed but that he proves not; but that it was entred in the *Stationers-Hall*, that he proves. But I do find, that he perſwaded Men to buy this Book, after it was prohibited; and before it was prohibited he perſwaded Men to buy it, ſaying, *It was an excellent Book, and it would be called in*, and then ſell well. I do Fine *Sparkes* 500 *l.* to the King, and to ſtand in the Pillory, without touching of his Ears, with a Paper on his Head to declare his Offence, and it is moſt neceſſary in theſe times; and for the *Pillory* to be in *Pauls* Church-yard. (*It is a Conſecrated Place, ſaith the Arch-biſhop of* Canterbury) *I cry your Grace mercy* (ſaid my Lord *Cottington*) *then let it be in* Cheapſide. For the other Three, I find that Mr. *Attorney* doth not proſecute them, therefore, my Lords, I do not Cenſure them.

The next in courſe that ſpoke after the Lord *Cottington*, was the Lord Chief-Juſtice *Richardſon*.

Lord Chief-Juſtice *Richardſon's* Sentence. *My Lords*,

Since I have had the Honour to attend this Court, Writing and Printing of Books have been exceedingly found fault withal, and have received a ſharp Cenſure, and it doth grow every day worſe and worſe; every Man taketh upon him to underſtand what he conceiveth, and thinks he is no body except he be in Print. We are troubled here with a Book, a Monſter, (*Monſtrum Horrendum, Informe, Ingens!*) It hath been a Queſtion who is the Author of this Book: Surely I am ſatisfied in my Conſcience *he is* the Author of it; But truly, give me leave, I do not think Mr. *Prynn* is the only Actor in this Book, but that there were many Heads and Hands therein beſides himſelf. I would to God in Heaven the Devil, and all elſe that had their Heads and Hands therein beſides Mr. *Prynn*, were, *&c.* for I think they are all ill-willers to the State, and deſerve ſevere puniſhment as well as Mr. *Prynn* doth. This Book is the ſubject of this days work, and it is annexed, by Mr. *Attorney*, to the very Information it ſelf.

For the Book, I do hold it a moſt *ſcandalous infamous Libel* to the *King's* Majeſty, a moſt Pious and Religious King; to the *Queen's* Majeſty, a moſt Excellent and Gracious Queen; ſuch a one as this Kingdom never enjoy'd the like, and I think the Earth never had a better. It is ſcandalous to all the Honourable *Lords*, and the *Kingdom* it ſelf, and to all ſorts of People. I ſay Eye never ſaw, nor Ear ever heard of ſuch a ſcandalous and ſeditious thing, as this miſhapen *Monſter* is. How ſcandalous a thing it is hath appeared already to your Lordſhips, by the *King* and *Queen's* Councel againſt Mr. *Prynn*; I will not for my part repeat.

Yet

9 *Caroli.*

Yet give me leave to read a word or two, where he cometh to tell your Lordſhips of the Reaſons why he writ this Book: Becauſe he ſaw the number of the Plays, Play-Books, Play-haunters, and Play-houſes ſo exceedingly increaſed, there being above *forty thouſand Play-Books*, being now more vendible than the choiceſt Sermons. What ſaith he in the *Epiſtle Dedicatory*? ſpeaking of Play-Books, *They bear ſo big a Price, and are printed in far better Paper, than moſt Octavo and Quarto Bibles, which hardly find ſo good vent as they; and then come in ſuch abundance, as they exceed all number, and 'tis a years time to peruſe them over, they, are ſo multiplyed*; and then he putteth in the Margin *Ben Johnſon* &c. *Printed in better Paper than moſt Bibles. Now if this be not a Tax upon the Kingdom, to print theſe Books in better Paper than the Bible it ſelf, for my part I leave it to your Lordſhips.* This Monſter, this huge miſhapen Monſter, I ſay it is nothing but lies, and venom againſt all ſorts of People. It is a ſtrange thing what this Man taketh upon him. He is not like thoſe *Powder-Traytors*, they would have blown up all at once; this throweth all down at once to Hell together, and delivereth them over to *Satan*. I beſeech your Lordſhips give me leave; *Stage-Plays*, &c. (ſaith he) *none are gainers and honoured by them, but the Devil and Hell; and when they have taken their wills in luſt here, their Souls go to Eternal Torment hereafter.* And this muſt be the end of this Monſters horrible Sentence. He ſaith, *So many as are in Play-houſes, are ſo many unclean Spirits*; and that *Play-haunters are little better than incarnate Devils.* He doth not only condemn all Play-writers, but all Protectors of them, and all beholding of them; and Dancing at Plays, and Singing at Plays, they are all damned, and that no leſs than to Hell. I beſeech your Lordſhips to give me leave but in a word to read unto you what he writes of Dancing, *&c. It is the Devils Profeſſion, and he that entereth into a Dance, entereth into a deviliſh Profeſſion; and ſo many paces in a Dance, ſo many paces to Hell*: This is that which he conceiveth of Dancing. *The Woman that ſingeth in the Dance, is the Prioreſs of the Devil, and thoſe that anſwer are Clarks, and the Beholders are the Pariſhioners, and the Muſick are Bells, and the Fidlers are the Minſtrels of the Devil.* I ſaid it was a Seditious Libel; this Point of Sedition is the only thing that troubles me, and it is that which I ſhall offer to your Lordſhips: For I do not know it, the good Opinion, Heart, Will and Affections of the Kings People and Subjects are the Kings greateſt Treaſure. Now if this be ſo, then for any Man cunningly to undermine theſe things, to take away the Hearts of the Subjects from the King, and to bring the King into an ill Opinion among his People, this is a moſt damned offence; and if I were in my proper place, and Mr. *Prynn* brought before me, I ſhould go another way to work. I proteſt unto your Lordſhips, it maketh my Heart to ſwell, and my Blood in my Veins to boil (ſo cold as I am) to ſee this or any thing attempted, which may endanger my Gracious Sovereign; it is to me the greateſt comfort in this world to behold his Proſperity.

Much hath been ſpoken concerning theſe things, and ſomething by my Lord *Cottington* before me; but good my Lords, give me leave to remember you one or two Paſſages, not yet ſpoken of. He writeth thus; *That* Nero's *acting and frequenting Plays, was the chiefeſt*

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chiefeſt cauſe that ſtirred up others to conſpire his death; would any Man think, that his acting and frequenting of Plays was the chiefeſt occaſion?

He writeth in another place worſe than this. *Fol.* 465. Tribellius Pollio *relates, That* Martian, Heraclius, *and* Claudius, *Three worthy* Romans *conſpired together,, to murder* Gallienus *the Emperor, (a Man much beſotted, and taken up with Plays, to which he likewiſe drew the Magiſtrates and People by his lewd Examples) as* Flavius *and others conſpired* Nero *his Murder for the ſelf-ſame cauſe*, &c. Now my Lords, that they ſhould be called Three worthy Perſons that do conſpire an *Emperors* death, (though a wicked *Emperor*) it is no Chriſtian Expreſſion.

If Subjects have an ill Prince, marry, what is the remedy? they muſt pray to God to forgive him, and not ſay they are worthy Subjects that do kill him: If they were worthy Acts, Mr. *Prynn*, I can tell what you are, (Mr. *Prynn* ſtanding, during the Cenſure, behind the Lord Chief-Juſtice *Richardſon*, and Arch-Biſhop *Neale*.) No Man will conſpire to murder a King that can be a worthy Actor. For the very thought of it is *High-Treaſon*. He ſpeaketh of theſe Three, that they were Three worthy *Romans* that did conſpire to murder *Nero*. This is moſt horrible, and here can be no manner of Expoſition, but in the worſt ſenſe; for his excuſe, he hath made none at all, only it was not his intention.

Good Mr. *Prynn*, you are a Lawyer. Intention! I know where the word ſtandeth equal, as that you may take the *Intention* this way, or that way, with the right-hand or left-hand, there in that Caſe you may ſpeak the Intention; but where the words are plain and poſitive, as in your Books, here is no help of Intention in the world: your words are plain and clear, therefore you can never make any defence at all out of that. Not to hold your Lordſhips any longer: My Lords, it is a moſt wicked, infamous, ſcandalous, and ſeditious Libel. Mr. *Prynn*, I muſt now come to my Sentence, though I am very ſorry, for I have known you long, yet now I muſt utterly forſake you; for I find that you have forſaken God, and his Religion, and your Allegiance, Obedience, and Honour, which you owe to both their *Excellent Majeſties*, the Rule of Charity to all Noble Ladies, and Perſons in the Kingdom, and forſaken all Goodneſs. Therefore, Mr. *Prynn*, I ſhall proceed to my Cenſure, wherein I agree with my Lord *Cottington*, as he began very well: Firſt, for the burning of the Book in as diſgraceful a manner as may be, whether in *Cheap-ſide* or *Pauls* Church-yard; for though *Pauls* Church-yard be a Conſecrated Place, yet Heretical Books have been burnt in that Place. And becauſe Mr. *Prynn* is of *Lincolns-Inn*, and that his Profeſſion may not ſuſtain diſgrace by his Puniſhment, I do think it fit, with my Lord *Cottington*, that he be put from the Bar, and degraded in the *Univerſity*; and I leave to my Lords the Lord Biſhops to ſee that done: and for the *Pillory*, I hold it juſt and equal though there were no Statute for it. In the caſe of a high Crime, it may be done by the diſcretion of the Court, ſo I do agree to that too. I Fine him 5000 *l.* and I know he is as well able to pay 5000 *l.* as one half of 1000 *l.* and perpetual Impriſonment I do think fit for him, and to be reſtrained from writing, neither to have Pen, Ink, nor Paper; yet let him have ſome pretty Prayer-Book, to pray to God

9 *Caroli.*

God to forgive him his ſins; but to write in good faith, I would never have him: For, Mr. *Prynn*, I do judge you by your Book to be an inſolent Spirit, and one that did think by this Book to have got the name of a Reformer, to ſet up the *Puritan* or ſeparatiſt Faction. I would not have Mr. *Prynn* go without a Recognition of his Offence to the *King* and *Queens* Majeſty. I agree to the Sentence on *Buckner* and *Sparkes*.

Secretary Cook.

Mr. Secretary *Cooke's* Speech

By this vaſt Book of Mr. *Prynn*, it appeareth he hath read more than he hath ſtudied, and ſtudied more than he conſidered; whereas, if he had read but one ſentence of *Solomon*, it had ſaved him from the danger he is now like to fall into. The *Preacher* ſaith, *Be not over-juſt, nor make thy ſelf over-wiſe, for why wilt thou deſtroy thy ſelf?* My Lords, It is a Sentence requireth much ſtudy and conſideration. It is moſt certain, that Righteouſneſs and Wiſdom are ſuch Vertues, as they help forward Juſtice; but when Wiſdom is mixed with a Mans own humours, as for the moſt part it is with Fleſh and Blood, there is danger of ſtraining it too far, and that will tend to the deſtruction of himſelf and others. Examples are too pregnant of this, and he may take it from a good Author, even from Chriſt himſelf. When his Apoſtles, out of zeal to their Maſter, would have called for Fire from Heaven againſt the *Samaritans* that refus'd to entertain him, the Anſwer was, *You know not of what ſpirit you are.* I would Mr. *Prynn* would have conſidered this.

There is a good Spirit that is meek, tempered with modeſty and humility, with mildneſs and with equity; and ſuch a Spirit is always tender, not to deſtroy, root up, overthrow, but to bind, repair and preſerve. But there is another fiery Spirit, which is always caſting of fire, nothing but damnation and deſtruction; certainly ſuch a Spirit ever tends to his own confuſion. And if this be well obſerved, every man ſhall find it true, that ſuch a Spirit ever cometh before deſtruction. I wiſh Mr. *Prynn* were not an ill Example of this. Certainly, my Lords, vice and corruption ought not only to be reprehended but to be puniſhed ſeverely, and that ſharply too where it is; but Mr. *Prynn* ſhould have conſidered, every Man is not a fit reprehender. He had no Invitation, nor Office nor Intereſt to imploy a Talent, which doth not belong unto him. If *Magiſtrates* and *Princes* ſhould inveigh againſt all things, and tolerate nothing, we muſt live no longer among Men; and certainly, if we will be thought to live with them that are wholly vertuous, we muſt go out of the World; we have a good Author for this. But, my Lords, a Toleration muſt be uſed, and that Mr. *Prynn* would have found if he had conſidered his own body: Shall a Man upon every light diſtemper and diſorder in his body take Phyſick? Or ſhall ill humors be purged till he purge all out? Certainly he will purge Spirit, Life, and all away with it. And as it is in the Natural Body, ſo it is in the Politick, there muſt be a Toleration and Connivence; it cannot be governed without it, and we have a Warrant for it. Did not *Chriſt* himſelf forbid the cutting out of the Tares, leſt they ſhould pluck Corn, and deſtroy that too. I think if Mr. *Prynn* ſhould have been asked the Queſtion that *Naaman* did to the Prophet, he would not at all have bid *go away in peace*, he would have threatned

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threatned Hell and deſtruction. There is a Chriſtian Wiſdom, and there muſt be a Toleration in all States. And certainly the faults that have been tolerated in all times were greater than modeſt Plays, or modeſt Dancing. It is not my intention, neither do I think it is the intention of any of your Lordſhips to Apologize for Stage-Plays, much leſs for the abuſe of them; I wiſh, and ſo I think doth every good Man, that the abuſe of them were reſtrained; but, my Lords, not by railing, curſing, damning, inveighing, *&c.* not only againſt the faults and Players themſelves, but againſt all Spectators, and thoſe that come to them, and that of all degrees, and with ſuch bitterneſs and acrimony, that in all the Authors alledged, which are infinite, there is not to be found an Example. *My Lords*, I am very ſorry he hath ſo carried himſelf, that a Man may juſtly fear he is the *Timon* that hath a quarrel againſt Mankind. But I love not too much to aggravate Offences, which of themſelves are heavy enough.

He calleth his Book *Hiſtrio-maſtix*; but therein he ſheweth himſelf like unto *Ajax Anthropomaſtix*, as the *Grecians* called him, the ſcourge of all Mankind, that is, the Whipper and the Whip. I cannot but concur with the Cenſure already begun by my Lord *Cottington*, given againſt Mr. *Prynn*, *Buckner* and *Sparkes*.

Afterwards the Earl of Dorſet *ſpake to this effect.*

Earl of *Dorſet* his Speech.

SUch ſwarms of Murmurers as this day diſcloſe themſelves, are they not fearful Symptoms of this ſick and diſeaſed time? ought we not rather with more Juſtice and Fear apprehend thoſe heavy Judgments which this *minor Prophet*, *Prophet Prynn*, hath denounced againſt this Land, for tolerating indifferent things to fall upon us for ſuffering them, like thoſe Mutineers againſt *Moſes* and *Aaron*, as not fit to breath? *My Lords*, It is high-time to make a Luſtration to purge the Air. And when will Juſtice ever bring a more fit Oblation than this *Achan? Adam*, in the beginning, put Names on Creatures correſpondent to their Natures: The Title he hath given this Book is *Hiſtrio-maſtix*, or rather, as Mr. Secretary *Cooke* obſerved, *Anthropomaſtix*; but that comes not home, it deſerves a far higher Title, *Damnation*, in plain *Engliſh*, of *Prince*, *Prelacy*, *Peers* and *People*. Never did *Pope* in *Cathedra*, aſſiſted with the Spirit of Infallibility, more poſitively and more peremptorily condemn Hereticks and Hereſie, than this doth Mankind. Leſt any partial Auditor may think me tranſported with Paſſion, to judge of the baſe Liveries he beſtoweth upon Court and Courtiers, I ſhall do that, which a Judge ought to do, *viz.* aſſiſt the Priſoner at the Bar. Give me leave to remember what Mr. *Attorney* let fall the other day. I will take hold of it for the Gentlemans advantage, That this Gentleman had no Miſſion; if he had had a Miſſion, it would have qualified the Offence. Our Bleſſed Saviour, when he converſed in this World, choſe Apoſtles, whom he ſent after into the World; *Ite, prædicate*, &c. to ſhew the way of Salvation to Mankind. Faith, Hope, and Charity, were the ſteps of this *Jacobs Ladder* to aſcend Heaven by. The Devil, who hates every Man upon Earth, play'd the Divine, cited Books, wrought Miracles,

10 *Caroli.*

cles, and he will have his Diſciples too, as he had his Confeſſors and Martyrs. My Lords, This contempt, diſloyalty, and deſpair, are the Ropes which this Emiſſary lets down to his great Maſters Kingdom for a general Service. My Lords, As the Tenor of their Commiſſion was different, ſo are the ways: Theſe Holy Men advanced their Cauſe in former times by meekneſs, humility, patience to bear with the weakneſs and infirmities of their Brethren; they taught obedience to Magiſtracy, even for Conſcience ſake; they divided not their Eſtates into Factions; they detracted from none, they ſought the Salvation of Mens Souls, and guided their Bodies and Affections anſwerably; they gave to *Cæſar* the things that were *Cæſars*; if *Princes* were bad, they prayed for them, if good, they praiſed God for them; however, they bore with them: This was the Doctrine of the Primitive Church, and this they did. I appeal to my Lords that have read this Book, if Mr. *Prynn* has not with breach of Faith diſcharged his great Maſters end. My Lords, When God had made all his Works, he looked upon them and ſaw that they were good. This Gentleman, the Devil having put Spectacles on his Noſe, ſays, that all is bad: no Recreation, Vocation, no Condition good; neither Sex, Magiſtrate, Ordinance, Cuſtome Divine and Humane, things animate, inanimate, all, my Lords, wrapt up in *Miſſa Damnata*, all in the Ditch of Deſtruction. Here, my Lords, we may obſerve the great Prudence of this *Prince* of Darkneſs, a Soul ſo fraught of Malice, ſo void of Humanity, that it gorgeth out all the filth, impiety and iniquity that the diſcontent of this Age doth contract againſt the Church and State: but it may be ſome follower of his will ſay, It was the Pride and wickedneſs of the Times that prompted him to this Work, and ſet his Zeal, through tenderneſs of Conſcience, to write this Book. My Lords, you may know an unclean Bird by his Feathers; let him be unplum'd, unmasked, pull off the deceitful Vizard, and ſee how he appeareth; this brittle-Conſcience, brother, that perhaps ſtarts at the ſight of the Corner-Cap, ſweats at the Surplice, ſwoonds at the Sign of the Croſs, and will rather dye than put on Womans Apparel to ſave his life; yet he is ſo zealous for the Advancement of his *Babel*, that he invents Legions, Coins new Statutes, corrupts, miſapplies Texts with falſe Interpretations, diſhonours all Men, defames all Women, equivocates, lies; and yet this Man is a Holy Man, a Pillar of the Church: do you (Mr. *Prynn*) find fault with the Court and Courtiers Habits, Silk and Satten Divines? I may ſay of you, you are all Purple within, all Pride, Malice, and all diſloyalty; you are like a Tumbler, which is commonly Squint-ey'd, you look one way, and run another way: though you ſeemed by the Title of your Book to ſcourge Stage-Plays, yet it was to make People believe, that there was an Apoſtacy in the Magiſtrates; but, my Lords, admit all this to be venial and pardonable, this *Pigmy* groweth a *Gyant*, and invades the Gods themſelves, where we enjoy this felicity under a Gracious *Prince* with ſo much advantage, as to have the light of the Goſpel, whilſt others are kept in darkneſs, the happineſs of the Recreations to the health of the Body, the Bleſſed Government we now have; when did ever Church ſo flouriſh, and State better proſper? and ſince the Plagues hap'ned

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none have been ſent among us ſuch as this Caterpillar is; what Vein hath opened his anger? or who hath let out his fury? when did ever Man ſee ſuch a *Quietus eſt* as in theſe days? yet in this Golden Age is there not a *Shimei* amongſt us, that curſeth the Anointed of the Lord, ſo puffed with pride; nor can the Beams of the Sun thaw his frozen Heart, and this Man appeareth yet. And now (my Lords) pardon me, as he hath wounded His Majeſty in His Head, Power, and Government, and Her Majeſty, His Majeſties *Dear Conſort*, Our *Royal Queen*, and my Gracious Miſtreſs; I can ſpare him no longer, I am at his Heart. *Oh quantum!* &c. If any caſt infamous aſperſions and Cenſures on our Queen and Her Innocency, ſilence would prove impiety rather than ingratitude in me, that do daily contemplate Her Vertues; I will praiſe Her for that which is her own, ſhe drinks at the Spring-Head, whilſt others take up at the Stream. I ſhall not alter the great Truth that hath been ſaid, with a Heart as full of Devotion, as a Tongue of Eloquence, the other day, as it came to his part (meaning Sir *John Finch.*) My Lords, Her own Example to all Vertues, the Candor of Her Life, is a more powerful Motive than all Precepts, than the ſevereſt Laws, no Hand of Fortune nor of Power can hurt Her; Her Heart is full of Honour, Her Soul of Chaſtity; Majeſty, Mildneſs and Meekneſs are ſo married together, and ſo impaled in Her, that where the one begetteth Admiration, the other Love; Her Soul of that excellent temper, ſo harmoniouſly compoſed, Her Zeal in the ways of God unparallel'd; Her Affections to Her Lord ſo great, if ſhe offend him, it is no Sun-ſet in Her anger; in all Her Actions and Affections ſo Elective and Judicious, and a Woman ſo conſtant for the redemption of all Her Sex from all imputation, which Men (I know not how juſtly) ſometimes lay on them; a Princeſs, for the ſweetneſs of Her Diſpoſition, and for Compaſſion, always relieving ſome oppreſſed Soul, or rewarding ſome deſerving Subject: were all ſuch Saints as She, I think the *Roman* Church were not to be condemned; on my Conſcience She troubleth the Ghoſtly Father with nothing, but that She hath nothing to trouble him withal. And ſo when I have ſaid all in Her Praiſe, I can never ſay enough of Her Excellency; in the relation whereof an Orator cannot flatter, nor *Poet* lye; yet is there not *Doeg* among us, notwithſtanding all the Tergiverſations his Councel hath uſed at the Bar? I can better prove, that he meant the *King* and *Queen* by that infamous *Nero*, &c. then he proves Players go to Hell; but Mr. *Prynn* your Iniquity is full, it runs over, and Judgment is come; it is not Mr. *Attorney* that calls for Judgment againſt you, but it is all Mankind, they are the Parties grieved, and they call for Judgment.

(1.) Mr. *Prynn*, I do declare you to be a Schiſme-maker in the Church, a Sedition-ſower in the Common-wealth, a Wolfe in Sheeps-cloathing, in a word, *Omnium malorum nequiſſimus.* I ſhall Fine him *Ten Thouſand Pounds*, which is more than he is worth, yet leſs than he deſerveth; I will not ſet him at liberty no more than a plagued Man or a mad Dog, who though he cannot bite, he will foam; he is ſo far from being a Sociable

ciable Soul, that he is not a Rational Soul; he is fit to live in Dens with ſuch Beaſts of Prey as *Wolves* and *Tigers* like himſelf: Therefore I do condemn him to perpetual Impriſonment, as thoſe Monſters that are no longer fit to live among Men, nor to ſee light. Now for Corporal Puniſhment, (my Lords) whether I ſhould burn him in the Forehead, or ſlit him in the Noſe; for I find, that it is confeſſed of all, that Doctor *Leighton's* Offence was leſs than Mr. *Prynn's*, then why ſhould Mr. *Prynn* have a leſs Puniſhment? He that was guilty of Murder was marked in a place where he might be ſeen, as *Cain* was. I ſhould be loth he ſhould eſcape with his Ears, for he may get a *Periwig*, which he now ſo much inveighs againſt, and ſo hide them, or force his Conſcience to make uſe of his unlovely Love-Locks on both ſides: Therefore I would have him branded in the Forehead, ſlit in the Noſe, and his Ears cropt too. My Lords, I now come to this *Ordure*, I can give no better term to it, to burn it, as it is common in other Countries, or otherwiſe we ſhall bury Mr. *Prynn*, and ſuffer his Ghoſt to walk: I ſhall therefore concur to the burning of the Book; but let there be a Proclamation made, that whoſoever ſhall keep any of the Books in his hands, and not bring them to ſome publick Magiſtrate to be burnt in the Fire, let them fall under the Sentence of this Court; for if they fell into wiſe mens Hands, or good Mens Hands, there were no fear; but if among the common ſort, and into weak Mens Hands, then tenderneſs of Conſcience will work ſomething. Let this Sentence be Recorded, and let it be ſent to the Library of *Sion*, (meaning a Colledge in *London*) whether a Woman, by her Will, will allow Mr. *Prynns* Works to be ſent.

9 Caroli.

For Mr. *Buckner*, I believe that he had no intention at all this Work ſhould come abroad, he is ſaid to be a conformable Man to the Church of *England*; I ſhall hardly Cenſure him, he deſerveth admonition.

For *Sparkes*, I concur in all things: The *Feodary* had his Office taken away from him by this Court; I ſee therefore no reaſon but that he may be barred from printing and ſelling of Books, and kept wholly to binding of Books.

TO welcome His Majeſty home, after His Progreſs this Year into *Scotland*, the Four *Inns of Court* agreed to Preſent to the *King* and *Queen* a moſt glorious *Maſque*; and accordingly on the 18*th* day of *February* this Year, on *Shrove-Tueſday* at night, in a gallant way Four Gentlemen, out of each *Inns of Court*, did ride on Horſe-back, richly habited to *Whitehall*, accompanied alſo with a Train of *Chriſtian Captives* many years enſlaved in Chains under the *Emperor* of *Morocco*, and now ſent by him as a Preſent to the King, for His aſſiſtance in deſtroying a Port of *Pyrates* that annoyed that *Emperor*, and which alſo proved to the future ſecurity of Traders in the *Mediterranean* Sea.

The Inns of Court Preſent a Maſque to the King and Queen at *Whitehall.*

And the City, willing to do ſomething anſwerable, feaſted their *Majeſties* a fortnight after, at the Lord *Majors Houſe*, (Alderman

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Alſo Preſented their Majeſties in the City.

Freeman being then *Major.*) And the *Inns of Court* Revellers richly habited, rid in manner as is before-mentioned through the City, adorned the Kings Feaſts, and at *Merchant-Taylors-Hall* the City partaked of that Radiant Show and Maſque.

The Names of the Maſquers at Court.

The King's Majeſty.

Duke of *Lenox.*	Lord *Feilding.*
Earl of *Devonſhire.*	Lord *Digby.*
Earl of *Holland.*	Lord *Dungarvin.*
Earl of *Newport.*	Lord *Dunluce.*
Earl of *Elgin.*	Lord *Wharton.*
Viſcount *Grandeſon.*	Lord *Paget.*
Lord *Rich.*	Lord *Saltine.*

The Names of the Young Lords and Noblemens Sons.

Lord *Walden.*	Mr. *Tho. Howard.*
Lord *Cranborne.*	Mr. *Tho. Egerton.*
Lord *Brackley.*	Mr. *Charles Cavendiſh.*
Lord *Shandos.*	Mr. *Robert Howard.*
Mr. *William Herbert.*	Mr. *Henry Spencer.*

* *L'Eſtrange* Page 129.

As to the Maſque, ſaith an Hiſtorian * who writes the Reign of *King Charles*, that for curioſity of Fancy, for excellency of Performance, for luſtre and dazling Splendor, this Age never before nor ſince within this Iſle afforded the like.

* *Sanderſon.*

It is ſaid by another Hiſtorian, * who alſo writ the Life of *King Charles*, That this gallant Maſque was performed by the Four *Inns of Courts* in ſuch Regret againſt *William Prynn*, Barreſter of *Lincolns-Inn*, for his late Book Entituled *Hiſtrio-maſtix*, being an Invective againſt Stage-Players.

Titles of Proclamations for the Year 1633.

Weſtminſter *the* 16*th of* April.

A *Proclamation againſt Frauds and Deceits uſed in* Drapery, *and for diſcovery and preventing of the ſame.*

Whitehall *the* 4*th day of* May.

A Proclamation for the Prizes of Victuals *within the Verge of His Majeſties Houſhold.*

Whitehall *the* 5*th day of* May.

A Proclamation for the well-ordering of His Majeſties Court *and Train, as well in his preſent* Journey *intended towards His Kingdom of* Scotland, *and return from thence, as in all other His Majeſties Journeys and Progreſſes hereafter.*

9 *Caroli*

A Proclamation for the uſe of the Bow *and the* Pike *together in Military Diſcipline.* — Oatlands *Aug. the 12th.*

A Proclamation for preventing of the Abuſes growing by the unordered Retailing of Tobacco. — Whitehall *the 13th day of* October.

A Proclamation concerning Tin. — Whitehall *the 22d day of* January.

A Proclamation for Priſing of Wines. — Whitehall *the 25th day of* January.

A Proclamation concerning Soap *and* Soap-makers. — Whitehall *the 26th day of* January.

A Proclamation for the Prices of Poultery, Rabbets, Butter, Candles, Char-coale, *and all manner of* Fuel *of* Wood. — Whitehall *the 12th day of* February.

A Proclamation for the ſpeedy ſending away of the Iriſh Beggars *out of this Kingdom into their own Country, and for ſuppreſſing of* Engliſh Rogues *and* Vagabonds, *according to Our Laws.* — Whitehall *the 12th day of* February.

A Proclamation concerning the abuſive venting of Tobacco. — Newmarket March 13.

Hiſtorical

Hiſtorical Collections

for the Year, 1634.

We continue the Courſe deſigned, to Commence every Year with the Arch-Biſhop of Canterburies *Diary.*

March 30. Arch-biſhop of *Canterbury's* Diary.

Palm-Sunday, ſaith the Arch-Biſhop, I Preached to the King at *Whitehall*.

May 13. I received the Seals of my being choſen Chancellor of the *Univerſity* of *Dublin* in *Ireland*; to which Office I was choſen, *September* 14. 1633. There were now, and ſomewhat before, great Factions in *Court*, and I doubt many private ends followed, to the prejudice of publick Service: good Lord preſerve me.

June 11. *Wedneſday* Mr. *Prynn* ſent me a Letter about his Cenſure in the *Star-Chamber* for his *Hiſtrio-maſtix*, and what I ſaid in that Cenſure, in which he hath many ways miſtaken me, and ſpoken untruth of me.

June 16. I ſhewed this Letter to the King, and by His command * ſent it to Mr. Attorney *Noy*.

* But it was with ſomewhat a ſharp Letter, the Copy whereof was found among his Papers.

June 17 Mr. *Attorney* ſent for Mr. *Prynn* to his Chamber, ſhewed him the Letter, asked him whether it were his Hand? Mr. *Prynn* ſaid he could not tell unleſs he might read it; the Letter being given into his Hand, (and Mr. Attorney going to his Cloſe-ſtool, needing a Paper for that purpoſe) he tore it in ſmall pieces, and threw it out at a Window, fearing, it ſeems, an *Ore tenus*.

For this, *June* 18. Mr. Attorney brought him into the *Star-Chamber* where all this appeared; * I there forgave him.

* Becauſe nothing was there proved, for Mr. Attorney knew not how to proceed or make good his accuſation.

July 26. I received word from *Oxford*, that the *Statutes* were accepted and publiſhed, according to my Letters, in the *Convocation-houſe* that week.

Auguſt 9. *Saturday*, Mr. *William Noy*, His Majeſties Attorney-General died at *Brentford*, *circiter horam noctis decimam*.

And on *Sunday* morning *Auguſt* 10. his Servant brought me word of it to *Croydon* before I was out of my bed; I have loſt a dear friend of him, and the Church the greateſt She had of his condition, ſince ſhe needed any ſuch.

Auguſt 11. one *Robert Seale* of St. *Albans* came to me at *Croydon*, and told me ſomewhat wildly about a Viſion he had at *Shrovetide* laſt, about not Preaching the Word ſincerely to the People; and a Hand appeared unto him, and Death, and a Voice bid him *go tell it*

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it the Metropolitan of Lambeth, and made him ſwear he would do ſo, and I believe the poor Man was over-grown with fancy: So I troubled my ſelf no further with him or it.

Aug. 30. *Saturday*, at *Oatelands*, the *Queen* ſent for me, and gave me thanks for a buſineſs, with which She truſted me; Her Promiſe then that She would be my friend, and that I ſhould have immediate addreſs to Her when I had occaſion.

September 30. I had almoſt faln into a Fever, with a Cold I took, and it held me about Three Weeks.

December the *1ſt Monday*, my ancient friend *E. R.* came to me, and performed great Kindneſs, which I may not forget.

Jan. 8. I married the Lord *Charles Herberts*, and the Lady *Mary*, Daughter to the Duke of *Buckingham*, in the Cloſet at *Whitehall*.

February 5. *Thurſday*, I was put into the great Committee of Trade, and the Kings Revenue, *&c.*

Sunday March 1. The great Buſineſs which the King commanded me to think on, and gave me account of, and *L. T.*

Saturday March 14. I was named one of the Commiſſioners for the *Exchequer*, upon the death of *Richard* Lord *Weſton*, Lord High Treaſurer of *England*. That evening *K. B.* ſent to ſpeak with me at *Whitehall*; a great deal of free and clear expreſſion, if it will continue.

Monday March 16. I was called again the next day into the Forreign Committee by the King.

March 22. *Palm-Sunday*, I Preached to the King at *Whitehall*.

The King, in the beginning of this Year, *May* the *5th*, had timely in his thoughts, how to raiſe Monies to ſet out a Fleet for the Guard of the *Narrow-Seas*, (which afterwards proved to be in the way of *Ship-Money*) the *Narrow-Seas* being at this time infeſted by *Pirates* of all his Neighbour-Nations, and from the *Mediterranean* by *Turks* and *Algiers*-men, was pleaſed to declare His Pleaſure and Expreſs Commandment, **That no Mariner or Sea-faring-men, Ship-Wright, or Ship-Carpenter whatſoever, being His Majeſties Subjects, ſhould, without the Kings Licenſe, or the Licenſe of the** Admiral of *England*, **enter, or attempt, or go about to enter into the Service of any Forreign** Prince or State, **or be employed out of this Realm in any Sea-Service whatſoever, unleſs it were in the Kings own Service, or of ſome of His Subjects. And if any at this time be in the Service of any Forreign** Prince, **that they forthwith return under a great Penalty.**

And on the ſame Day **His Majeſty thought fit to declare His further Pleaſure, concerning the** Flags **to be employed for His Royal Navy, as well as for the Ships of His Subjects of** South **and** North-Britain; **and conceiving it meet for the Honour of the Kings own Ships in His** Navy-Royal, **and of ſuch other Ships as are, or ſhall be employed in the Kings immediate Service, that the ſame be by their Flags diſtinguiſhed from the Ships of any other of His Subjects; doth therefore prohibit and forbid, That none of the Subjects of any of His Nations and Kingdoms, ſhall from henceforth preſume to carry the** Union-Flag **in the Main-Top, or other part of any of His Ships, that is St.** George's Croſs, **and St.** Andrew's

Andrews Croſs joyned together, but that the ſame Union-Flag be ſtill reſerved as an Ornament proper to the Kings own Ships, and Ships in his immediate Service and Pay, and none others; and his Majeſties further Will and Pleaſure is, that all other Ships of his Subjects of England, or South-Britain bearing Flags, ſhall from henceforth carry the Red Croſs, commonly called St. George his Croſs; and alſo that all the other Ships of the Kings Subjects of Scotland and North-Britain, ſhall from henceforth carry the White Croſs, commonly called St. Andrews Croſs. 16 *Caroli.*

And it concern'd his Majeſty to think of ſome other ways than hitherto he had done to raiſe monies for his Occaſions, for that the Monies which were to come to the *Exchequer* upon the Compoſition with Recuſants, fell far ſhort of expectation.

For the King inſtead of receiving two full parts of three out of Recuſants eſtates, had little above one part in ten or twelve, eſpecially in the *North* where their Compoſitions were higheſt. *Roger Widdrington* of *Cartington* in the County of *Northumberland* Eſquire paid 60. *l. per Annum* into the *Exchequer*, his Eſtate being better worth than 500 *l. per Annum*; *William Anderton*, of *Anderton* in the County of *Lancaſter* Eſquire paid 20 *l. per Annum*, his Eſtate being eſtimated worth 500 *l. per Annum*. *Francis Harecourt* of *Ranton* in *Staffordſhire*, paid 25 *l. per Annum*, his Eſtate being worth above 200 *l. per Annum*. Sir *Henry Merry* of *Darbyſhire*, Kt. paid 66 *l.* 13 *s.* 4 *d. per Annum*, his eſtate being worth 600 *l. per Annum* and upwards. Sir. *John Thimbleby* of *Lincolnſhire*, Knight, paid 160 *l. per Annum*, his eſtate being eſtimated at 1500 *l. per Annum*. Sir *Ralph Ellecare* of *Yorkſhire*, Knight paid 50 *l. per Annum*, his eſtate being worth 600 *l. per Annum*. And much to the like proportion did others compound in thoſe Northern Counties; but afterwards by the advice of Mr. *Noy*, a more ſubſtantial way was thought upon, to raiſe a notable Revenue for the King, by *Ship-money*, of which more fully in its proper time and place. Recuſants Compoſitions fall ſhort of expectation.

Mr. Prynn *of* Lincolns-Inn *was brought to the Bar of the Court of* Star-Chamber *on the* 11*th of* June, *and Mr. Attorney* Noy *thus opened the matter againſt him.* Mr. *Noy.* Mr. *Prynn* once more brought into the *Star-Chamber.*

My Lords,

'THere hath been an Information againſt Mr. *Prynn* in this 'Court, for a Seditious Railing Libel, or rather a *Volume of* 'Libels.

'He had the ſentence of the Court for the ſame. I will ſay thus 'much, it was more favour ſhewed him than he did deſerve; he 'was mercifully dealt withal. He hath been in Priſon he hath 'been Degraded; he hath had his Ears cut off, and undergone all 'ſhame. It ſeems he hath been admitted to Pen, Ink and Paper in 'the Tower, and he hath made uſe of it. *My Lords*, he did write 'a Letter or rather a Scandalous Libel, to ſome of your Lordſhips, 'and falleth particularly upon ſome of your Lordſhips here; for

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'he doth examine whatſoever was ſaid at the hearing of his Cauſe: 'and he ſaith, what was done by one, was done by all the reſt.

'*My Lords*, This *Libel* came to the King's Attorney-General, and 'he ſent for Mr. *Prynn*, and wiſhed him to give over this practice of 'Rayling now at laſt. He was asked whether it was his writing or 'no? (no wonder he would tell a lye, ſeeing he had ſo often lied, 'and forſworn himſelf in Court before) He anſwered, he could 'not tell, unleſs he might read it all: ſo it was delivered unto him 'to read, conſiſting of five pages. He read as much of it as was his 'pleaſure, yeſterday in my Chamber, in my preſence; and my back 'being from him, and his from mine, he taketh the Letter (the 'Libel) and teareth it in pieces, like a Rat, or a Vermine, and 'throweth it out of the Window: yet I cauſed the pieces to be ga-'thered up, which your Lordſhips may ſee, and the Libel in a great 'part may be read. Then he was asked, if he did tear it? He ſaid 'I will anſwer you nothing. *My Lords*, I ſhall deſire he may be 'asked here, whether he did tear it, or no?

Lord *Keeper*. 'Mr. *Prynn*, Mr. *Attorney* deſires to know, whether you did tear 'this, or no? Mr. *Prynn* anſwered, If it may pleaſe your Lordſhips, 'I have been cenſured in this Court, and ſubmitted my ſelf to eve-'ry particular in the execution of it; and I have ſo carried my ſelf 'in publick, without giving any offence at all in the leaſt kind; and 'if Mr. *Attorney* exhibit any thing in Court againſt me, I deſire that 'I may give a legal Anſwer unto it. I hope this Court will be fa-'vourable toward me. I did nothing in publick to give any offence, 'and what I wrote in private, was not my intention to come in pub-'lick. I am a man ſubject to paſſion, as all men are; therefore I 'hope your Lordſhips will not impute it as a Crime.

Lord *Keeper*. 'Here is humility for the time to come, but for the time paſt it is 'very ill.

Mr. *Noy*. 'I ſhall deſire your Lordſhips that he may be in Goal, and kept 'cloſe Priſoner; and neither to have Pen, nor Ink, nor Paper, nor 'go to Church; and I ſhall afterward proceed againſt him for this 'here. I think in my Conſcience (ſaid Mr. *Noy*) he hath neither 'Grace, nor Modeſty.

The Arch-Biſhop of *Canterbury*. '*My Lords*, He hath undergon a heavy puniſhment, I am hearti-'ly ſorry for him; and Mr. *Prynn*, I pray God forgive you for what 'you have done amiſs. I confeſs I do not know what it is to be 'cloſe Priſoner, and to want Books, Pen, Ink and Company. Cer-'tainly a man alone in that Caſe, who knoweth how he may be in-'ſtigated? And as Mr. *Attorney* ſaith, he is paſt all Grace, and Mo-'deſty; ſurely then he had need to be more free, and have Books 'and go to Church, that he may become better. I ſhall therefore 'be an humble ſuitor to your Lordſhips, that he may have the pri-'vilege to go to Church (ſaith Mr. *Prynn*, with a low voice, I 'humbly thank your Grace.) But my Lord *Keeper* asked the reſt of 'the Lords, what they thought of it? but no reſolution was given 'at all, but they would take it into their Conſideration. The Lord '*Richardſon* then ſaid, let him have the Book of Martyrs, for the 'Puritans do account him a *Martyr*.

'Mr. *Prynn* deſired the Arch-Biſhop of *Canterbury*, that he might 'have the Books, which his Officer ſeized upon in his Study; and the 'Arch-Biſhop did ſeriouſly proteſt, that they were ſeized without his

'privity,

privity, and that he had direction to ſeize no Books, but thoſe ‘ queſtioned in Court; but would give a Warrant under his hand ‘ to re-deliver them.

In purſuance of the ſettlement of Church-Affairs, the Biſhop of *London* did about this time deſign to impoſe the *Engliſh Liturgy* and Diſcipline, upon the Engliſh Companies and Regiments in Foreign parts, and upon the Churches of Foreingers living in *England*, and repreſented to the Lords of the Council his advice therein, in propoſitions to this effect.

Propoſitions preſented to the Council by the Biſhop of *London* concerning Engliſh Preachers employed in Foreign Parts.

1. Whether it be not fit (I had almoſt ſaid neceſſary) that the ſeveral Colonels in the *Low-Countries* ſhould entertain no Miniſter, as Preacher to their Regiments, but ſuch as ſhall conform in all things to the Church of *England* eſtabliſhed, and be commended unto them from your Lordſhips, by the advice of the Lord Arch-Biſhop of *Canterbury* or *York*, for the time being.

2. That the *Company of Merchants* reſiding there, or in any other foreign parts, ſhall admit no *Miniſter*, as Preacher unto them, but ſuch as are Qualified, and Commended as aforeſaid.

3. That if any *Miniſter*, having by feigned carriage, got to be ſo recommended, either to any of the ſeveral *Colonels*, or to the *Deputy-Governor* and Body of the Merchants there, that be after found unconformable, and will not mend upon warning given by the Colonels, or Deputy-Governor of the Merchants, he ſhall within three months after ſuch warning given, and refuſed, be diſmiſſed from his ſervice, that a more orderly and peaceable man may be ſent unto them.

4. That every *Miniſter* or Preacher with any Regiment of Souldiers, that are his Majeſties born Subjects, or with the Company of Merchants there, or elſewhere, ſhall read Divine Service, Chriſten Children, Adminiſter the Sacrament of the Lord's Supper, Marry, Inſtruct the Younger or more ignorant ſort in the Catechiſm, Viſit the Sick, Bury the Dead, and do all other duties according as they are preſcribed in the Book of *Common-Prayer*, maintained in the Church of *England*, and not otherwiſe: and that he which will not conform himſelf ſo to do, ſhall not continue *Preacher*, either to any Regiment of *Engliſh*, or *Scotiſh*, or to the Merchants.

5. That if any *Miniſter*, or Preacher, being the King's Subject, ſhall with any bitter Words, or Writings in Print, or otherwiſe, defame the Government of the *Church of England* eſtabliſhed, His Majeſties Ambaſſador or Agent in thoſe parts, for the time being, is to be informed of it; and upon notice given from him to the State, he, or they ſo offending ſhall be commanded over by *Privy-Seal*, or otherwiſe, to anſwer their Offence, or Offences here.

6. That no *Colonel* of any ſeveral Regiment, or *Deputy-Governor* of the Merchants ſhall give way, that their *Miniſter* or Preacher ſhall bring any other Miniſter to Preach for him in time of his Sickneſs, Abſence, or other neceſſary employment, but ſuch, as for whoſe conformity to the Church and Government he will be anſwerable.

7. That if any *Miniſter*, being a Subject of the King's, in any parts beyond the Seas, ſhall in any Auditory, or elſewhere pub-

An. 1634. lickly Speak, Write, Print or Divulge any thing derogatory to the Doctrine or Diſcipline eſtabliſhed in the *Church of England*, or againſt the temporal State and Government, that the King's Agent do certifie his Offence, that ſo he may be recalled by *Privy-Seal*.

8. That no man ſhall be choſen or ſent over by the Merchants here, either to *Delf*, or any other part of their Reſidence beyond the Seas (whenſoever any place, or places ſhall become void) but ſuch a man as is conformable to the *Church of England*; and ſuch as will be careful to ſee, that they who are under his Government ſhall obſerve all ſuch Church-duties, as are expreſſed and required in any of the former propoſals.

9. That whenſoever the *Merchant-Adventurers* ſhall become Suitors to renew or confirm their *Patent* (as in moſt Kings times is uſual to do) that then there be a Clauſe inſerted into their *Patent*, to bind them to the obſervance of all, or ſo much of thoſe Inſtructions, as ſhall be thought fit by His Majeſty, and the Lords, *&c.*

June 17. 1634. The Arch-Biſhop of *Canterbury* thought fit to purſue thoſe Propoſals, he had made to the Council, and writ a Letter to the Merchants at *Delf*, to the purpoſe following.

After our hearty commendations, &c. *We are commanded by His Majeſty to ſignifie unto you that this Bearer Mr.* Beaumont *choſen by joint-conſent of your Company to be your* Preacher at Delf, *or where elſe you ſhall at any time reſide, is a man learned, ſober and conformable to the Doctrine and Diſcipline eſtabliſhed in the Church of* England, *and that you are to receive him with all decent and courteous uſage fitting his Perſon and Calling, and to allow him the uſual ancient ſtipend which Mr.* Forbes *lately, or any other before him hath received. And further we are to let you know, that it is His Majeſties expreſs Command, that both you, the Deputy, and all and every other Merchant, that is, or ſhall be reſiding in thoſe parts beyond the Seas, do conform themſelves to the Doctrine and Diſcipline ſetled in the Church of* England: *And that they frequent the* Common-Prayers *with all religious duty and reverence at all times required, as well as they do Sermons: And that out of your Company, you do yearly about* Eaſter, *as the* Canons *preſcribe, name two* Church-Wardens *and two* Sides-men, *which may look to the Orders of the Church, and give an account according to their Office. And Mr.* Beaumont *himſelf is hereby to take notice that His Majeſties expreſs Pleaſure and Command to him is, that he do punctually keep and obſerve all the Orders of the Church of* England, *as they are preſcribed in the* Canons *and the* Rubricks *of the* Liturgy. *And that if any of your Company ſhall ſhew themſelves refractory to this Ordinance of His Majeſty (which we hope will not be,) he is to certifie the name of any ſuch Offender, and his Offence to the Lord Biſhop of* London *for the time being, who is to take Order and give Remedy accordingly. And theſe Letters you are to regiſter and keep by you, that they which come after may underſtand what care His Majeſty hath taken, for the well-ordering of your* Company *in Church-affairs.*

affairs. And you are likewiſe to deliver a Copy of theſe Letters to Mr. Beaumont, *and to every ſucceſſor of his reſpectively, that he and they may know, what His Majeſty expects from them, and be the more inexcuſable if they diſobey. Thus not doubting, but that you will ſhew your ſelves very reſpectful of theſe His Majeſties Commands, we leave you to the Grace of God, and reſt,*

June 17. Your very Loving Friend,
W. Canterbury.

At the Star-Chamber, *June* 20. 1634.

Preſent,

The Arch-Biſhop of *Canterbury.*	Earl of *Bridgewater.*
Lord *Keeper.*	Lord *Cottington.*
The Arch-Biſhop of *York.*	Lord *Newburgh.*
Lord *Privy-Seal.*	Mr. *Treaſurer.*
Lord *High-Chamberlain.*	Mr. *Comptroler.*
Lord *Chamberlain.*	Mr. *Secretary Cook.*

Mr. *Secretary Windebanck.*

Order in the Court of Star-Chamber concerning Farthing Tokens, and the impoſing them on the people for Wages.

THis day the Board did take into Conſideration, the Complaints made from ſeveral parts of the Kingdom, concerning the ſtop and refuſal of *Farthing-Tokens*, proceeding as well from the abuſe in counterfeiting the ſame, as in cauſing the ſame to paſs, as well in payments as for Commodities, and for Wages to Workmen and Labourers, in greater quantities than was intended.

And whereas upon a *Decree* lately made in the High Court of *Star-Chamber*, the 25*th* day of *April* laſt, wherein Sir *Francis Crane* Knight, was Plaintiff againſt *William Hawks* and others, for making and venting counterfeit *Farthing-Tokens*, their Lordſhips did call to mind, that there was conſideration likewiſe had, and proviſion made by the ſaid *Decree* againſt the abuſe in forcing the ſame upon men for Wages and in other payments, and directing the right uſe to be made of them for the good and benefit of the Subject, according to His Majeſties Royal Intention, and the Proclamations publiſhed in that behalf:

It was therefore by the Board thought fit and Ordered, that ſo much of the ſaid *Decree* as concerned the regulating of the buſineſs *de futuro*, ſhould be ſet down in this Order, and together with the ſame, be forthwith Printed and Publiſhed, which part of the ſaid *Decree* doth accordingly follow in theſe words.

The Court being informed, that by the abuſe of ſome particular perſons, whoſe only aim is to make a private gain and profit to themſelves, His Majeſties people are much abuſed in many parts of this Kingdom, and poor Labourers, whoſe neceſſities are ſuch, as enforceth them to take their hire in any money, are compelled many times to take their whole weeks Wages in Farthings, from ſuch as buy great quantities at low rates, and make a Commodity thereby: Which abuſe, as it is already become a great burden and grievance to His Majeſties people in many parts of the Realm,

ſo

An. 1634.

ſo it is to be feared it will hereafter turn to the great diſadvantage of His Majeſties Patentees, *if it be not remedied by a timely Reformation. Their Lordſhips being willing to prevent and meet with ſuch growing evils, and deſirous to remove the inconveniences of forcing His Majeſties Subjects to take ſuch great quantities of Farthings in Payments; which* Farthing-Tokens *rightly uſed, are of themſelves very uſeful and neceſſary, and were made chiefly for the relief of the Poor, and to be vented and uſed only for exchange in ſmall Sums, but not to be put upon any in great Payments, have thought fit and* Ordered, *and it is by this their Lordſhips Sentence declared, That it is utterly unlawful, and expreſly contrary to the true meaning of His Majeſties* Letters Patents *and Proclamation, that any ſuch* Farthing-Tokens *ſhould be inforced upon any poor Labourers or Workmen, or other perſons in any Payments, either of greater or leſſer Sums.*

And they declare further, That they think it fit that no perſon ſhould pay above Two-pence in Farthings to any other perſon at any time. And this Court doth alſo declare it to be unlawful, for any Man to buy or barter for any Farthing, at, or for leſſer rate than they are uſually vented by His Majeſties Patentees, *to whom the ſole making thereof is granted, and upon whom the re-change thereof lyeth at the ſame rate: And if any perſon ſhall be found herein to offend in either of theſe kinds, this Court is reſolved ſeverely to puniſh the Offenders. And the Court doth withal hold fit, and deſire that His Majeſty ſhould be moved, to declare and command the ſame, by His Highneſs's Proclamation, to be publiſhed throughout this Kingdom, that ſo the true uſe of thoſe* Farthing-Tokens, *intended for the good of the Poor, may be continued, and the abuſes aforeſaid may either be prevented, or puniſhed.*

Trin' Term' 1634.

Attorn' Regis Noy *vers'* Overman *& al'* Soap-boilers.

THe Defendants being *Soap-boilers* of the City of *London*, did, contrary to His Majeſties *Proclamation*, uſe divers great quantities of *Fiſh-Oyl* in making their *Soap*, and ſome of them alſo uſed *Spyke-Oyl* in the making thereof, to qualifie the ſcent of the *Fiſh-Oyl*; His Majeſty, by that Proclamation, having prohibited the uſe of any other Oyl, than *Olive* and *Rape-Oyl* to make Soap withal, ſo as it might be ſweet, and more ſerviceable. And the Defendants, *Griffin*, *Cope*, and *Revel*, in further contempt of His Majeſties ſaid Proclamation, and in contempt and oppoſition to His Majeſties *Letters Patents*, granted to the new Corporation of *Soapers* of *Weſtminſter*, and by the inſtigation and encouragement of the Defendant, *Whitwell* refuſed to ſuffer the Aſſay-Maſter for Soap to try, or mark their Soap, although His Majeſty, by his ſaid Proclamation, commanded the doing thereof, and that none ſhould be ſold until it were marked and tryed; and albeit the Defendants were no Corporation, Body, or Fellowſhip by any lawful Authority, yet the Defendant *Overman*, *Baker*, and *Troughton*, with others, did at ſeveral times, and at ſeveral Taverns in *London*, aſſemble themſelves together, to confer about the Sale of their *Soap*, and buying of Fiſh-Oyl of the *Greenland-Company*, and did there conclude and agree, not to ſell their ſecond beſt Soap under 54 *s.*

Uſing Fiſh-Oyl in Soap-making.

Not ſuffering the Aſſay-Maſter to try or mark their their Soap.

Unlawful Meetings to ſet Price on their Commodities.

the

the Barrel, and did after ſell it at greater Rates, and did buy 600 *Tun* of Fiſh-Oyl not long after to uſe in making their Soap; and for theſe Offences they were all committed to the *Fleet*, during His Majeſties Pleaſure: *Griffin* fined 1500 *l.* *Overman* the elder, and *Whitwell* 1000 *l.* a-piece: *Baker*, *Troughton*, *Cope* and *Revell* 1000 Marks a-piece: *Hardwick*, *Overman* Jun', *Barefoot*, *Hayes*, *Hynde*, *Waſher*, *Barber*, *Weeden* and *Moncke* 500 *l.* a-piece, and all of them diſabled by themſelves, or their Work-men, Servants, Agents, or any other, to uſe or exerciſe their Trade of *Soap-boiling* at any time hereafter.

10 *Caroli.*

Diſabled to uſe their Trade.

Mich. Term. 1634.

THere happened this *Term* a ſudden Remove in the Court of *Common-Pleas*: Sir *Robert Heath* who was Lord Chief-Juſtice of the *Common-Pleas* was removed, and Sir *Jo. Finch* was ſworn Lord Chief-Juſtice of that Court. Great were the Diſcourſes what the occaſion ſhould be of that ſudden Advancement. But Four days after the Writ for *Ship-money* coming forth, it was conceived, by common Diſcourſe, that he was to be inſtrumental to advance that buſineſs.

And on the 16*th* of *October* the Lord *Keeper Coventry* made this Speech unto him, at the time of his Inſtallment in the Court of *Common-Pleas*.

The Lord Keepers *Speech to Sir* John Finch, *at the time he was to be made Chief-Juſtice of* Common-Pleas, *the* 16*th of* October 1634.

Mr. Serjeant Finch.

'THe Kings Majeſty calling to mind your many Services to 'Himſelf, and the Queen, and knowing well your great 'Learning, accompanied with much Dexterity in the accom-'pliſhing of Buſineſs of weight, hath appointed you to ſucceed in 'the Place vacant in this Court, and here to ſit as Chief-Juſtice. 'In this you ſee a manifeſt Argument of ſingular Goodneſs of 'the King and Queen, ſo mindful of their Servants, imitating God 'above, that rewardeth not *ſecundum, ſed ſupra Bona Opera.* Now 'as many heretofore, ſo you in your due time have cauſe to ac-'knowledge with *David*, that *your Cup doth overflow.* As this is a 'great comfort to ſee your Endeavours not only favoured with 'Acceptance, but Crowned with Reward; ſo it will inſtruct you, '(your Service having brought you Promotion) and put you in 'mind of your Service, that the Gifts of Princes, though they are '*ſine aliquo reddendo*, yet they are not to be reckoned ſo by them that 'have them; but as Fruits ſown in Fruitful Ground to them that 'receive them: and of this nature is your Place, which your Ma-'ſter gives you to ſerve him in; and yet you muſt ſerve him ſo, as 'you may be fruitful to His People. I remember in *Rotulo Parliamenti*

Upon the Removal of Sir *Robert Heath* from being Lord Chief-Juſtice of the *Common-Pleas*, Sir *John Finch*, the Queens Attorney, was choſen into that Place.

An. 1634. 'ments 20 *Ed.* 1. in a great Cauſe between *Humphry de Bohun*, and 'Gilbert de Clare; It was ſaid of that *King*, he was as great a Law-'giver, as a Victorious Prince, and therefore ſtyled the *Juſtinian of* 'England, *Rex omnibus Juſtitiæ Debitor*. The King, Our Maſter, 'as much as any, makes the ſame acknowledg ment in Practice: 'never any King, I may ſay, never any Man of juſter, or more up-'right Heart, that equal Juſtice ſhould be miniſtred to His Sub-'jects; for he knows well, that *Rex & Subditus* are Correlatives, 'even as Man and Wife; and the Emblem of King not wanting 'betwixt them. As the Subject owes Obedience, ſo the King Pro-'tection and Juſtice. This Debt is *Debitum Juſtitiæ*, too great 'and heavy a Burthen to be born by a King, compounded only of 'Mortal Fleſh, were it not that His Councel were as Religious and 'Juſt, as he is Wiſe and Politick; and thereby the Load of the 'King's Buſineſs is lighted, by laying a part of the great and inſup-'portable Burthen upon the Judges: For His *Debitum Juſtitiæ*, 'which is the Debt of a King primarily, by a Secondary Means be-'comes the Debt of Judges, and under as great Bonds as may be; 'Greater there cannot be to bind the Conſciences of Men. The 'firſt Bond is *Debitum Patriæ*, due to all the Kings People, whoſe 'Cauſes and Places are the proper Subjects of this Tribunal, and 'whoſe flouriſhing Eſtate depends much upon the Juſt Proceedings 'of this Court. Were there no other Motive, yet this that pre-'vails among the Heathen, *Amor Patriæ*, were ſtrong enough to 'make Judges deſirous of this Duty. The ſecond is *Debitum Regi*; 'for he truſts them with his Richeſt Treaſure, that which is dearer 'than the Apple of His Eye. His Juſtice is one Prime-part of His 'Oath at His Coronation, *Facies fieri in omnibus Juſtitiam Æquam* '*& Rectam*: And what you are to give the King for this, you ſhall 'need to go no farther than your Oath, the neglect of which puts 'you to the Will of the King, for Body, Laws and Goods. The 'third the greateſt of all, *Debitum Deo*, as he is the Fountain of all 'Juſtice, and a fearful avenger of them that do the contrary. And 'three ways I ſhall mind you how this is a Debt to God. Firſt, '*Ratione Juramenti*, by reaſon of your Oath, for the immediate 'relation it hath to God; that it is *Religio Juris jurandi*, and there-'fore, under this Oath, you are bound to God in a full diſcharge. 'Secondly, *Ratione Loci*, for the Seat of Judges; God ſits where-'on you ſit; and you may aſſure your ſelf, that he that ſets you 'there, will take ſtrict account of you. Thirdly, *Ratione Judicii*: 'The Judgment it ſelf is Gods, if you be upright, as you ought. 'It is ſaid in the 82*d Pſalm*, *God ſtands in the Congregation of Prin-'ces*, is the Judge among Gods; and ſo when you ſit here, you 'muſt think God is in your Face to give Judgment as it is right, 'or otherwiſe to puniſh; and therefore when you ſhall ſit your ſelf 'on your Cuſhion, either here, or in any other place, you have 'cauſe to ſay, as *Jacob* did when he had ſlept in *Bethel*, *How dread-'ful is this Place! This is the Houſe of God.* This in the general. 'I fear I have ſpent too much time; I will make amends in the Par-'ticulars: Somewhat for Order. *Communia Placita*, the Pleas of the 'People; as they are numberleſs, ſo neceſſarily muſt their Pleas 'and Cauſes be, therefore they are all Civil, whether for Lands, 'Goods real, perſonal, or mixt: they are the proper Object of this

'Court.

10 *Caroli.*

'Court. Firſt therefore, you muſt uſe diligence in attending and 'diſpatching the multitude of buſineſs in this Court. Common 'Induſtry may diſcharge Common Employment; but this is Super-'lative and Tranſcendent, and therefore your diligence muſt be 'extraordinary. Secondly, you muſt uſe great Patience in Matters 'brought before you: I muſt confeſs, that a multitude of Buſineſs, 'and a Good-will to diſpatch, will as ſoon try ones Patience as any 'thing; yet whatſoever Tryal you are put to, be not from your 'Tryal. Nothing better becomes a Judge than Patience. Third-'ly, you muſt uſe great caution in diſcerning thoſe things brought 'before you; for thoſe that have ill Cauſes will omit no endeavour 'to beguile you: therefore you muſt keep Watch and Ward, and 'try every thing, that no Counterfeit come to be put upon you. 'Then, in the fourth place, it is neceſſary to uſe all expedition. '*Nulli deferemus* is coupled with *Nulli negabimus*, *Nullo vendemus* '*Juſtitiam*: all three naught, and none can tell which is the worſt. 'In the firſt place, I ſhall adviſe and wiſh you, in all your Judg-'ments, to inſiſt upon the ancient ways of your Common Law. 'New Opinions are many times in a Councellor retain'd, to defend 'a Side; but they ſtand not with the Gravity of a Judge. To in-'vent or find out any thing is commendable in a Councellor, but let 'a Judge ſtand *ſuper antiquas vias*; for *Lex Loci, & Conſuetudo Ang-'lie* is all in all. One Particular more, which (I think) condu-'duceth much to Juſtice, is, to give all encouragement to the 'good and expert Clerks of this Court. It hath ever been the 'great Commendation and Honour of this Court to be furniſhed 'with the beſt Clerks. Theſe encourage others, inform, and re-'duce to the ſame purity of Pleading, which (as Mr. *Littleton* 'ſaith) is one of the moſt Honourable things in the Law. And 'if a Man obſerve what a multitude of juſt Cauſes are overthrown 'by vitious Entries, and Pleadings, he will have juſt cauſe to be-'lieve it. I know to whom I ſpeak. Your great Underſtanding 'and Judgment, and that Integrity in you, need not that I ſhould 'ſay half this: and yet, conſidering what Order is, and the Duty 'of my Place, and affection to your Perſon, I could do no leſs. I 'ſhall ſhut up all in Two *Memento's*. The one, That the Juſtices 'of this Court are ſtyled by the Name of *Juſtitiarij* without Addi-'tion, and the Proceſs likewiſe *coram Juſtitiariis* without Addi-'tion. Addition, for the moſt part, diminiſhes. It is an Honour, 'and ſomewhat more, that it hath been attributed more to this 'Court than to any other. Think on it, and let it be an occaſion for 'you to think what it is, and to follow it. The next *Memento* is, 'to remember the Catalogue of your Predeceſſors: for I may be 'bold to ſay, as many and Reverend Men have been upon the 'Cuſhion in this Court, as ever ſat on any; eſpecially the remem-'brance of the beſt is the beſt Inſtruction and Leſſon to your ſelf. 'Out of my true and hearty affection to you, I wiſh you may often 'think of them; and ſo think of their Ways, that your Ways 'may exceed, and out-run the beſt.

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Finch, *Lord Chief-Juſtice of the* Common-Pleas, *his Speech, in anſwer to the Lord* Keeper, *at the time of his Inſtallment.*

May it pleaſe your Lordſhip,

Levis eſt Dolor, qui Conſilium capere poteſt.

'GReat Joy brings forth no leſs, and breeds no leſs perturbation 'in their thoughts that enjoy it. How it muſt then be with 'me, at this preſent, I leave to your Lordſhip to judge. To my 'ſelf, I muſt confeſs, I appear like one for a long time ſhut up in a 'dark Room, upon whom a great Light, on a ſudden, hath broken 'in. I muſe at the conſideration of my own weak acknowledg-'ment of the Kings Goodneſs ſhining upon me at this time. *Ig-'notus moritur ſibi*, is a ſad finiſhing of a Man's own Courſe. I 'ſhall crave your Lordſhips Patience; and if I live, ſhew you how 'unwilling I am to live the one, or die the other. I have now 'ſpent (I would I could ſay not miſ-ſpent) *Thirty-four Years* in 'relation and practice of the Common-Law; *Relation* I call it, 'for the firſt *Six Years* beſtowed by me in the Books of Law, by 'ſome unhappy means I was diverted, and my Reſolution fitted to 'another way for Forreign Employment, to which, after *Nine* or '*Ten Years*, I was deſign'd: and at that time, the *Great Seal* being 'put into the Hands of that *High-Treaſurer* of all Learniug and 'Eloquence, the Lord of St. *Albans*, (pardon my good Lord, if 'my never-forgotten Favours deſire to revive him, whoſe faults let 'them be buried with him in the Grave; I remember his Vertues) 'by him was I invited to the Practice of the Common-Law. His 'Fall, and other Misfortunes to your Lordſhip not unknown, drew 'me from my Study: But afterwards, reſolutely turning my Hand 'to the Plough again, it pleaſed God to ſend your Lordſhip that 'Place, which now you hold, (which God continue) and my 'Prayer ſhall be ever from the bottom of my Heart, that I may ne-'ver ſee it in another Hand: and when *Atalanta-like* I ſtooped at the 'Ball of Profit, neglecting the Goal of Honour, ſpending my time 'more in the Service of the Subject, than my own Good; He, in 'whoſe Hands the Hearts of Kings are, hath bowed the Heart of 'my Gracious Sovereign and Maſter to me; and I learn to think 'that is beſt which he doth, and ſo ſubmit my ſelf to His Pleaſure. 'This hath bred in me ſeveral Meditations, ſome of Comfort and 'Conſolation. Here ſit by your Lordſhip Three Grave and Lear-'ned Judges well-verſed in the ways of this Grave Court; and I 'am as confident of their particular Affection to me, as certain 'of my own to them; two of the ſame Society where I was bred, 'my Ancient Acquaintance; and from the third I ever had a re-'ſpective Carriage. I ſhall think it no diſparagement to ſee with 'their Eyes, to hear with their Ears, and to ſpeak with their 'Tongues, till my own Obſervation, and what I ſhall hear by them, 'may make me more ſubſtantial. In the Goſpel of *Chriſt His Coat 'is ſaid to be without Seam*; and in the *Pſalms*, that the *Queens*

'*Veſture*

10. *Caroli.*

'*Veſture was of divers Colours*: upon which one of the Fathers 'makes this Obſervation, *In Veſte varietas, Sciſſura nulla.* Some-'times we may differ in opinion; but our Hearts ſhall be like our 'Robes. My chiefeſt Comfort is in the confidence of your Lord-'ſhips Noble Favour, whom I ſhall ever ſet as a Mirror before my 'Eyes. I count it happy, that I ſhall attend your Lordſhip in a 'Court whereby I may learn, and you ſee my Endeavours to fol-'low your Precepts and Example, which hath ever been accompa-'nied with all Vertues: The aſſurance of the Kings Majeſties Fa-'vour is Happineſs, as fit for my Wonder, as for my Words. At 'His firſt Acceſs to the Crown, He was pleaſed, upon ſome ſmall 'occaſion to caſt a Princely Eye upon me; after He made me of 'His Learned Council, and then commended me to the Service of 'my ever moſt Gracious and Excellent Miſtreſs; and ſtill doubled 'His Favours in continuing me in His own Service. Afterward He 'pricked me out to the Parliament to ſerve Him and the Common-'wealth; and though my own diſability made me ſeek to decline 'it, Himſelf gave me means to ſupport it, (a thing before not 'known) and found out a way to add ſome more value to me, by 'ranking me above others before me in Place and Merit. Theſe, 'and more Favours innumerable have comforted me; that nothing 'but my own demerits can leſſen His Grace to me. I begin to 'think of what *Demoſthenes* ſaid to the People of *Athens*, when 'they choſe their Officers:

'To take up Thoughts and Cogitations fit for the Greatneſs and 'Dignity of this Place; and in that I cannot but remember thoſe 'Judges which *Jethro* commended to *Moſes*, (whom your Lord-'ſhips remember) Men *Timentes Deum, & qui oderunt avaritiam.* 'His Majeſties Love ſhall make me hate all baſe and ſordid 'Thoughts, and ſtir up in me all Zeal to His Service. For upright-'neſs between Man and Man, I ſhall need no other Argument but 'the juſtneſs of His Royalty, who likes beſt of thoſe Servants that 'beſt diſtribute His Juſtice to His People; for the reſt, *Levavi ocu-'los meos in montem, unde venit auxilium*; Gods Grace give me 'aſſiſtance, as he did to the poor Fiſhermen. I ſhall account it 'your Lordſhips great Favour to make my humble Recognitions 'and Reſolutions, with the beſt advantage of your Lordſhips Ex-'preſſion, known to the Kings Majeſty.

Carolus Rex, &c.

20. *Octob.* 10 *Car.* The firſt Writ for Ship-mony.

TO *the Major, Commonalty, and Citizens of Our City of* London, *and to the Sheriffs of the ſame City, and good Men in the ſaid City, and in the Liberties, and Members of the ſame, Greeting. Becauſe We are given to underſtand, That certain Thieves, Pirates, and Robbers of the* Sea, *as well* Turks, *Enemies of the Chriſtian Name, as others, being gathered together, wickedly taking by force, and ſpoiling the Ships, and Goods, and Merchandizes, not only of Our Subjects, but alſo of the Subjects of Our Friends in the* Sea, *which hath been accuſtomed anciently to be defended by the* Engliſh *Nation; and the ſame, at their pleaſure, have carried away, delivering the Men in the ſame into miſerable Captivity: And foraſmuch as We ſee them daily preparing all manner of Shipping, farther to moleſt Our Merchants, and to grieve the Kingdom, unleſs*

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City

City aforeſaid, or any thirteen, or more of you, within thirty days after the receit of this Writ; to Aſſeſs all men in the ſaid City, and in the Liberties, and Members of the ſame, and the Landholders in the ſame, not having a Ship, or any part of the aforeſaid Ships, nor ſerving in the ſame, to contribute to the expences, about the neceſſary proviſion of the premiſes; and to Aſſeſs and lay upon the aforeſaid City, with the Liberties and Members thereof, viz. *upon every of them according to their Eſtate and Subſtances, and the portion Aſſeſſed upon them; and to nominate and appoint Collectors in this behalf. Alſo we have Aſſigned you, the aforeſaid* Major, *and alſo the Sheriffs of the City aforeſaid, to levy the Portions ſo as aforeſaid Aſſeſſed upon the aforeſaid men and Landholders, and every of them in the aforeſaid City, with the Liberties and Members of the ſame, by diſtreſs and other due means; and to commit to Priſon all thoſe, whom you ſhall find Rebellious and contrary in the premiſes, there to remain until We ſhall give further Order for their delivery. And moreover We Command you, that about the Premiſes ye diligently attend, and do, and execute thoſe things with effect, upon peril that ſhall fall thereon: but We will not, that under colour of Our aforeſaid Command, more ſhould be levied of the ſaid men, than ſhall ſuffice for the neceſſary expences of the Premiſes; or that any, who have levied mony for Contribution, to raiſe the aforeſaid Charges, ſhould by him detain the ſame, or any part thereof; or ſhould preſume, by any manner of Colour, to appropriate the ſame to other uſes; Willing, that if more than may be ſufficient ſhall be Collected, the ſame may be paid out among the Contributers, for the rate of the part to them belonging.*

Witneſs My Self, at *Weſtminſter* the 20*th* day of *October*, in the 10*th* year of Our Reign.

The Writs going the next year into the Inland-Counties, theſe Inſtructions following were prepared to be ſent into every County, for the better executing of the ſaid Writ.

Inſtructions and Directions from the Lords of the Council, for the Aſſeſſing and Levying of the Ship-mony againſt this next Spring.

AFter our hearty Commendations; Whereas His Majeſty hath ſent His *Writ* to you the *High-Sheriff* of the County of *Middleſex*, and to the *High-Sheriff* of the County of *Hartford*; and to the Majors and other Head-Officers of Corporate Towns within the ſaid Counties, to provide one Ship of two hundred and fifty Tuns beſides Tunnage, to be furniſhed with Men, Tackle, Munition, Victuals, *&c.* and other neceſſaries; to be ſet forth for the ſafeguard of the Seas, and defence of the Realm, at the charge of the ſaid Counties, and Corporate-Towns in the ſame.

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We are by His Majeſties directions and expreſs Commandment, to let you know, that he hath upon moſt important and weighty Reaſons concerning not only His Majeſties own Honour and the ancient Renown of this Nation, but the ſafety of your ſelves, and all His Subjects in theſe troubleſom and War-like-times, ſent out the aforeſaid *Writ* unto you, and the like into all the Counties, Cities and Towns throughout the whole Kingdom; that as all are concerned in the mutual defence of one another, ſo that all might put to their helping hands, for the making of ſuch Preparations, as (by the bleſſing of God) may ſecure this *Realm*, againſt thoſe dangers and extremities which have diſtreſſed other Nations, and are the common effects of War, whenſoever it taketh a People unprepared: and therefore as His Majeſty doubteth not of the readineſs of all His Subjects to contribute hereunto with cheerfulneſs and alacrity; ſo he doth eſpecially require your care and diligence in the ordering of this buſineſs, ſo much concerning His Majeſtie, and all His People, that no meanalty nor other miſcarriage may either deter or diſgrace the Service, which in it ſelf is ſo juſt, honourable and neceſſary: for which cauſe we have, by His Majeſties like-directions ſent you, together with the ſaid Writs, theſe enſuing Advices and Inſtructions, for your better proceeding: which upon the receit hereof, you the *Sheriff* of the County of *Middleſex* are preſently to communicate with the Head-Officers of the Corporate-Towns in that County.

Firſt, That you meet with the *Sheriff* and Head-Officers in the *Writ* mentioned, and that you make Aſſeſſments how much each of the ſaid particular Counties ſhould pay towards the ſetting forth of the ſaid *Ship* according to the tenor of the ſaid Writ. And becauſe divers of you may be acquainted with the charges of ſuch Maritime preparations, and the miſtaking thereof might hinder the ſervice, we have thought good to let you know, that upon a juſt and due valuation, we find, that the Charge of a *Ship* furniſhed will be 3300 *l.* whereof we think fit, that the County of *Middleſex* bear 1800 *l.* and the County of *Hartford* 1500 *l.*

3300 *l.*
Midd. 1800 *l.*
Hartf. 1500 *l.*
Weſtm. 350 *l.*

That the City of *Weſtminſter* and the Liberties bear 350 *l.* and the reſt of the *County* the reſidue of the ſaid ſum of 1800 *l.*

Secondly, When you have ſetled the General Aſſeſſments, we think fit that you ſubdivide the ſame, and make particular Aſſeſſments, in ſuch ſort as other common Payments upon the County and Corporate-Towns aforeſaid, are moſt uſually ſubdivided and aſſeſſed; and namely, that you the *Sheriff* divide the whole Charge laid upon the County into Hundreds, Lathes, and other diviſions, and thoſe into Pariſhes and Towns; and the Towns and Pariſhes muſt be rated by the Houſes and Lands lying within each Pariſh and Town, as is accuſtomed in other Common Payments, which fall out to be payable by the County, Hundreds, Lathes, Diviſions, Pariſhes and Towns. And whereas His Majeſty takes notice, that in former Aſſeſſments, notwithſtanding the expreſs orders given in Our Letters to eaſe the Poor, that have been Aſſeſſed towards this ſervice, poor Cottages and others, who having nothing to live on, but

but their daily work; which is not only a very charitable Act in it ſelf, and grievous to ſuch People, but can admit no better inſtructions, than that it was done out of an adverſe humour, of purpoſe to raiſe clamour, and prejudice the Service.

10 *Caro* Not to Aſſeſs poor Cottages, except means in Mony or Goods, to live over and above their labours.

Wherefore His Majeſties expreſs Command is, that you take effectual care, and order by ſuch Precepts and Warrants as you iſſue for this Service; that no Perſons be Aſſeſſed unto the ſame, unleſs they be known to have eſtates in Mony, or Goods, or other means to live by, over and above their daily Labour: and where you find ſuch Perſons to be taxed, you are to take off what ſhall be ſet upon them, and lay it upon thoſe that are better able to bear it. And that you may the better ſpare ſuch poor People, it is His Majeſties pleaſure, that where there ſhall happen to be any man of ability, by reaſon of gainful Trades, great Stocks of Mony, or other uſual Eſtates, who per-chance, have or occupie little or no Land, and conſequently in an ordinary Landſcot would pay nothing, or very little; ſuch men be rated and aſſeſſed according to their worth and ability: and that the monys which ſhall be levied upon ſuch, may be applied, not only to the ſparing and freeing of the ſuch poor people as aforeſaid, but alſo to the eaſing of ſuch, as being either weak of Eſtate, or charged with many Children, or great Debts, or unable to bear ſuch great charge, as their Lands in their occupation might require, in an uſual and ordinary proportion; and the like cauſe to be held by the Head-Officers in the Corporate-Towns, that a poor man be not ſet in reſpect of the uſual Tax of his Houſe, or the like, at a greater ſum than others of much more wealth and ability; and herein you are to have a more than an ordinary care and regard, whereby to prevent complaints of inequality in the Aſſeſſments, whereby we were much troubled the laſt year.

If Taxed, then to alter it.

Perſons of ability by reaſon of gainful Trades, *&c.* occupying of no Land, to be rated by their abilities.

No man to be ſet by uſual Tax of his Houſe, at a greater ſum than men of great abilities.

Thirdly, To the end this may be effected with more equality and expedition, you the *Sheriff* are to govern your ſelf in the Aſſeſſment for His Service, by ſuch publick payments, as are moſt equal and agreeable to the Inhabitants of that County; and for your more eaſie and better proceeding herein, after you have accordingly rated, the ſeveral Hundreds, Lathes and Diviſions of that County, you may ſet forth your Warrants to the Conſtables, requiring them to call unto them, ſome of the moſt diſcreet and ſufficient men of every Pariſh, Town or Tything, and to conſider with them how the ſum charged upon each Hundred, may be diſtributed and divided as aforeſaid, and with moſt equality and indifferency; and to return the ſame in Writing, under their hands, with all poſſible expedition: which being done, you are to ſign the Aſſeſſment ſet on the ſeveral Perſons of every particular Pariſh, Town or Tything, if you approve thereof; and if for inequality you find cauſe to alter the ſame in any part, yet after it is ſo altered, you are to ſign the ſame, and keeping the true Copy thereof, you may thereupon give order, for the ſpeedy Collection and Levying of ſuch ſums accordingly, by Conſtables of Hundreds, petty-Conſtables and others, uſually applied for Collections of other Common Charges and Payments; and when any ſhall be by them returned to you, either to have refuſed or neglected to make payment,

To proceed according to payments agreeable, and moſt equal to the Inhabitants of the County.

To Aſſign the Aſſeſſment if approved of, otherwiſe to alter and keep a Copy.

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The Writ to be executed upon ſuch as refuſe, cauſing diſtreſſes to be taken and ſold for their Aſſeſſment, and their charges, *&c.*

ment, you are without delay to execute the Writ upon them, cauſing Diſtreſſes to be taken of them, to be ſold for the payment of the Aſſeſſment, and the juſt charges thereupon ariſing, and the overplus of the Diſtreſſes to be rendred back. And you the Head-Officers of the Corporate-Towns aforeſaid, obſerving your uſual diſtribution by Wards, Pariſhes or otherwiſe, as is accuſtomed among you, for your common payments, are to do the like by your ſelf and your ſeveral Miniſters under you reſpectively, as is before appointed to be done by the Sheriff, ſo far forth as may be agreeable to the courſe and ſtate of your Town or Corporation in the ſaid ſeveral Aſſeſſments of each Pariſh; as well you the Sheriff, as you the Head-Officer of the ſaid Towns, are to cauſe to be particularly expreſſed, how much every Clergy-man is rated for his meer Eccleſiaſtical Poſſeſſions, and what for his Temporal and Perſonal Eſtate; and to ſend to this Board under your hands within a month after the Aſſeſſment made, and returned to you, and ſigned by you, an exact and true Certificate, as well what is ſet upon every Pariſh in general, as particularly upon every Clergy-man, in each of them as aforeſaid.

Return a Note to the Board of the Aſſeſſment, and the Names of the Clergy-men within a month.

Clergy to be Aſſeſſed for the preſent.

Fourthly, Concerning the Aſſeſſment of the Clergy: Albeit His Majeſty is reſolved to maintain all their due Priviledges which they have enjoyed, in the time of his Royal Progenitors; yet being it hath not been hitherto made ſufficiently appear to His Majeſty or this Board, what Priviledges have been allowed to them in former times, touching Payments and Services of this nature; His Majeſty is pleaſed, that for the preſent you proceed to tax and aſſeſs them for this ſervice; and to receive and levy their Aſſeſſments, as you are Authoriſed to do of the reſt of His Majeſties Subjects; but with this care and caution, that you and your Miniſters fail not to bear due reſpect both to their Perſon and Calling, not ſuffering any inequalities, or preſſures to be put upon them. And as His Majeſty is reſolved that ſuch your Aſſeſſments and Proceedings ſhall not be prejudicial in the future to them, or any of their Rights or Priviledges, which upon future ſearch ſhall be done unto them: ſo His Majeſties pleaſure is, that where any Clergy-man ſhall find himſelf juſtly grieved; upon complaint made to the *Dioceſan*, under whom he is, or to his Chancellor, or to ſuch other Perſon as the Dioceſan ſhall appoint; you with ſome of them ſhall hear the ſame complaint, and (if there be cauſe) relieve the Party complaining according to equity; but if the Complaint ſhall be altogether frivolous and cauſleſs, then the *Dioceſan* is to puniſh the Complainant.

Upon a complaint by a Clergy-man, the Dioceſan or Chancellor is to hear, *&c.*

Puniſheth the Complainant, ſo, *&c.*

Perſons refuſing to do their Office, to bind them over to the Board.

Refuſing to be Bound, to Commit them.

Fifthly, If any Conſtables, Bayliffs, or other Officers, refuſe or neglect to do their duties in obeying your Warrants, either for Aſſeſſing, Collecting, or Levying, or for doing any other thing incident or neceſſary for this ſervice, you are to bind them over to anſwer ſuch their faults, and neglect of the Board; and if any of them refuſe to enter into ſuch Bond, then you are to commit them till they ſhall enter into ſuch Bond accordingly, or perform their Duties according

cording to your Warrants. That you are to take ſpecial care in the mean time, that notwithſtanding their refuſal or refractorineſs, the Aſſeſſing, Collecting and Levying of the mony for the ſaid Service, do proceed by your ſelf, and ſuch others as you ſhall appoint, and find more ready to do the ſame, the doing of the Service being by His Majeſties *Writ* committed to your ſelf. And therefore howſoever for your eaſe and better diſpatch of the buſineſs we like well, that you require the Aſſiſtance of the Conſtables, or ordinary Officers; yet in caſe any of them do not their duties, you are to do yours, and by your ſelf, and ſuch Inſtruments as you like beſt and ſhall chooſe, to ſee the buſineſs effected.

10 *Caroli.*

Service Commanded to the eheriff himſelf.

Sixtly, If you find or underſtand, of any Perſons that are refractory, or do unneceſſarily delay payment of what ſhall be Aſſeſſed upon them for the ſaid Service, whereof you muſt frequently and often call for an account from the Conſtables, Officers and others intereſted under you; you are preſently without any delay, partiality or reſpect of Perſons, to proceed roundly with them, of what quality or condition ſoever they are, according to His Majeſties *Writ*, and not to defer medling with them to the laſt, or until others have paid (as was done by ſome *Sheriffs* in former years) whereby all the trouble and burthen was caſt upon the end of the year, and thoſe that were refractory gained time above thoſe that were well-affected to the ſaid Service.

To proceed againſt any perſons whatſoever.

Laſtly, And for all other matters, not particularly mentioned in the Inſtructions, you muſt upon all occurrences govern your ſelf according to the *Writ* to you directed, and as may beſt accompliſh the Service committed to your truſt; wherein you are to uſe all poſſible diligence to effect the ſame with ſpeed, that the mony for this Service may be ſo truly paid in, as that Proviſion may be ſeaſonably bought and provided to furniſh, and to ſet forth the *Fleet*, at the day expreſſed in His Majeſties *Writ*. For aſſure your ſelf, that whatſoever you ſhall leave unlevied during your *Shrievalty*, will not be caſt upon your Succeſſor, as in former years ſome *Sheriffs* expected, and therefore retarded the ſervice; His Majeſty being reſolved not to put upon the Succeſſor the burthen of his Predeceſſors neglect; but that all ſuch ſums that ſhall be left unlevied by your ſelf after the end of the year, ſhall be levied upon you by Warrant from your Succeſſor, or ſuch other Warrant as ſhall be thought moſt behoveful. And as for the money which ſhall be Levied and Collected for this ſervice, you are from time to time to pay the ſame at *London*, to the Treaſurer of the *Navy* for the time being, who hath Power and Warrant under the *Great Seal*, to receive the ſame from you and your Agent, and to give Acquittances and Diſcharges for what he receives for the ſaid Service. And you are in like manner, from time to time, to call the Head-Officers to the Corporate-Towns, within your *County*, to Aſſeſs and Levy what is reſpectively ſet upon the ſame; and to require him either to ſend the ſum to *London*, to his ſaid Treaſurer of the *Navy*, or to pay it to you in convenient time, to be ſent up with what you are to pay in. And as you ſhall herein perform your duty with diligence, you may be aſſured to receive

Governed according to the Writ. The mony to be paid in timely, to make proviſion to ſet forth the Fleet at the day.

Not the deferring the Collecting.

To pay the mony to the Treaſurer of the *Navy*.

An. 1634. both favour and thanks from His Majeſty, and ſo we bid you farewell.

Your Loving Friends,

William Canterbury.
Thomas Coventry Cuſtos.
Guil. London.
Henry Mancheſter.
J. Lenox.
Lynſey.
Arundel and *Surrey.*
Pembrock and *Mountgomery.*
Edward Dorſet.
Edward Newburg.
Francis Cottington.
Henry Vane.
Thomas Germin.
John Cook.
Francis Windebanck.

The *VVrit* for *Ship-mony* being ſent to the Lord Major of *London*, Sir *Robert Parckhurſt* being then Lord Major, it was communicated to the Common-Council in *Guild-Hall*, as appears by the enſuing *Act* of Common-Council: whereupon a Petition was drawn up by the Committee of Aldermen and Common-Council men for that purpoſe appointed.

Commune

16 *Caroli.*

COmmune Concilium tent' in Camera Guilhald' Civitat' Lond' ſecundo die Decembris *Ann. Dom.* 1634. *Annoq; Regni Domini noſtri* Caroli, *nunc Regis Angliæ, &c. Decimo, coram* Roberto Parkhurſt *Majore Civitat'* Lond', Roberto Maſon *Armigero Recordatore* Lond', Hugone Hamerſley *Milite*, Richardo Dean *Milite*, Jacobo Cambell *Milite*, Georgio Whitmore *Milite*, Nicolao Rainton *Milite*, *& Aldr'o*, Chriſtofero Clethero, Edwardo Bromfeild *&* Ricardo Fenn *Aldr'is*, Mauricio Abbot *Milite & Aldr'o* Henrico Garway *&* Humfredo Smith *Aldr'is*, Willielmo Acton *Milite, & Baronetto ac Aldr'o*, Anthonio Abdy, Roberto Cambell, Henrico Prat *&* Henrico Andrews *Aldr'is*, Johanne Highlord *Aldr'o & Johanne Cordell ejuſdem Civitat' vicecom', ac majore parte Conſiliariorum de Communi Concilio ejuſdem Civitat' aſſemblat', ubi tunc & ibidem enactitat' fuit prout ſequitur*, viz.

THis day was read to this Court His Majeſties *VVrit*, directed to the Major, Commonalty and Citizens of this City, and to the Sheriffs of the ſame, for, and touching the providing of ſeven *Ships of VVar*, furniſhed with Men, Victual, and all warlike Proviſions, for the defence of the Seas and other occaſions in the ſaid *VVrit* contained; the tenor whereof enſueth in theſe Words following, *viz. Carolus Dei Gratia, &c.* Whereupon this Court, after due and ſerious conſideration taken of the premiſes, conceiving that by their ancient Liberties, Charters, and Acts of Parliament, they ought to be freed and diſcharged of thoſe things, which by the ſaid Writ are required by them to be done, doth Order and Agree, That the draught of a Petition touching the ſaid Buſineſs, this day read to this Court, ſhall be Engroſſed, and with all dutiful reſpect for, and on this Cities behalf, humbly preſented to the Kings moſt excellent Majeſty.

It is likewiſe Ordered and Agreed upon by this Court, That (for the more full ſatisfaction of the Kings Moſt Excellent Majeſty, whom God long preſerve to Reign over us) the words (*ſo far as in them lieth*) which are inſerted in an Act of Common-Council, made the nineteenth day of *November* laſt paſt, upon a ſubmiſſion made by this Court to His Majeſties moſt gracious Judgement and Award, touching the difference between the Parſons and Vicars, and the Pariſhioners of the ſeveral Pariſhes of this City, ſhall be expunged and put out; and the ſame Act of Submiſſion certified to His Majeſty under the Seal of the Majoralty without

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thoſe words, *And that this ſhall be a ſufficient warrant for the Clerk for the doing thereof.*

Item, It is Ordered and Agreed upon by this Court, that Sir *Hugh Hamerſley* and Sir *James Cambell* Knights and Aldermen, Mr. *Recorder*, Mr. Alderman *Cletherowe*, Mr. Alderman *Bromfeild*, Mr. Alderman *Garway*, Mr. Alderman *Smith* and Mr. Alderman *Abdy*, or any four of them, together with *John Wollaſton* Goldſmith, *John Gair* Fiſhmonger, and divers others, or any thirteen of them, ſhall meet together, and take due conſideration of the particular objections and matters complained of by the Parſons and Vicars of *London*, in their Petition exhibited to the Kings Moſt Excellent Majeſty againſt the Pariſhioners of the ſeveral Pariſhes of this City, touching Tythes; and the ſaid Committees not only to conceive of fitting Anſwers to the ſame, but to conſider of what matters and requeſts ſhall be thought fit to be humbly made and preſented by this City, to the Kings Moſt Excellent Majeſty touching the ſaid Buſineſs; and to frame the ſame with advice of Mr. *Recorder*, and ſuch learned Councel, as they ſhall call; and being framed, to preſent the ſame unto His Majeſties Royal Conſideration; and *Edward Renniock* and *Lewis Bromley* to warn the ſaid Committees to meet together, and to attend on them.

Which Committee did agree upon this Petition following.

To the Kings Moſt Excellent Majeſty.

The Humble Petition of Your Faithful Subjects, the Major, and Commonalty, and Citizens of Your City of *London*, moſt humbly ſhewing,

THat where Your Majeſty by Writ, *bearing* teſte 20 Octobris *laſt, Commanded Your Petitioners, at their Charge, to provide ſeven* Ships of War, *furniſhed with Men, Victual, and all Warlike proviſions, to be at* Portſmouth *by the firſt of* March *next, and to continue from thence by the ſpace of twenty ſix Weeks in Your Majeſties Service, upon the defence of the Seas and other cauſes in the ſaid* Writ *contained:*

Your Petitioners, do in all ſubmiſſive humbleneſs, and with acknowledgement of Your Sacred Majeſties many Favours unto Your ſaid City, inform Your Majeſty, that they conceive, that by ancient Priviledges, Grants, and Acts of Parliament (which they are ready humbly to ſhew forth) they are exempt, and are to be freed from that Charge.

And do moſt humbly Pray,

That Your Majeſty will be graciouſly pleaſed, that the Petitioners, with Your Princely Grace and Favour, may enjoy the ſaid Priviledges and Exemptions, and be freed from providing of the ſaid Ships and Proviſions.

And they ſhall Pray, *&c.*

Mich.

10 *Caroli.*

Mich. 10 *Car.*

Star-chamber. *Attorn' Regis vers' Myn Eſq; & al'.*

THe Defendant *Myn*, by colour of his Office of Clark of the *Hanaper*, demanded and received 4 *s.* 6 *d.* a-piece, for ſeveral Patents of the Sheriff of *Oxon* and *Warwick*; but half thereof being, at the moſt, due *per Stat.* 8 *Eliz.* which made perpetual 13 *Eliz.* He alſo, contrary to an *Act* of *Parliament* 23 *H.* 8. and contrary to a *Proviſo* in a Decree of *Chancery*, for his increaſe of Fees, took 2 *s.* 6 *d.* upon ſeveral Commiſſions of Sewers, as due to him, there being only due to him 2 *d.* upon Each. He alſo took 9 *l.* yearly of the Chafer of Wax for the *Great-Seal*, after the Rate of Six-pence *per Pound*, for paying to him out of the *Hanaper* 360 *l. per Ann'*, which His Majeſty allowed for Wax, no Poundage-mony being due to him in that Caſe; for it was a Debt due by Contract from His Majeſty, and no matter of Bounty. He likewiſe exacted, and took of Mr. *Pulford* 75 *l.* for Poundage-mony, for paying forth of the *Hanaper* 3000 *l.* due from His Majeſty to him. He alſo took 7 *l.* 10 *s.* Poundage-mony, after 6 *d.* the Pound, for paying out of the *Hanaper* 300 *l.* to the uſe of Mr. *Amſtrother* His Majeſties Ambaſſador, none being due in that Caſe; and he alſo took 10 *l.* of him, which he exacted for Intereſt, in reſpect he paid him the Mony ſooner than he uſed to Accompt in the *Exchequer*. He alſo demanded of one Mr. *Gibbs* 50 *l.* for Poundage, after the rate of 6 *d. per Pound* for 2000 *l.* Fine given him by His Majeſty, no part thereof being paid into the *Hanaper*, or to be paid out of the *Hanaper*; and therefore nothing due to the Defendant for it: yet he kept Mr. *Gibb's* Patent ſeven years, and would not let him have it, becauſe he refuſed to pay the Poundage. He alſo exacted, and took 5 *s.* a-piece for ſeveral Patents of *Conge de Eſlyer* and Royal Aſſent, granted for ſeveral Biſhops, no Fee at all being due to him for ſuch Patents. He alſo exacted upon ſeveral Patents of *Denization* 10 *d.* a Name over and above his due Fee; and 14 *s.* 8 *d.* over and above his due Fee for a Patent of Creation of a Baron and Viſcount, and 10 *d.* for ſeveral Prebends and Deanries, beſides his due Fees; and 14 *d.* upon every Name in ſeveral Protections-Royal, more than was due. And the Defendant *Dawe*, by colour of his Office of Deputy to the Defendant *Myn*, took for ſeveral Eſcheators Patents 12 *d.* a-piece more than the due Fee; and alſo extorted greater and more Fees than was due, for Drawing and Engroſſing Eleemoſinary Patents or Protections to Collect Charities for Loſſes by Fire, *&c.* And for theſe ſeveral Extortions both the Defendants were committed to the *Fleet*, *Myn* Fined 3000 *l.* and *Dawe* 300 *l.* and *Myn* ſuſpended from the execution of his Place during His Majeſties Pleaſure.

Extortions in the Clark of *Hanaper*, and his Deputy.

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Mich. 10 *Car.*

Star-Chamber. *Attorn' Regis vers'* Roper *Knight.*

Depopulation and converting Arable into Paſture.

100 *l.* Reward to the Proſecutor.
100 *l.* to the Miniſter.
100 *l.* to the Poor.

THe Defendant being poſſeſſed of ſeveral Farm-houſes, whereto was commonly uſed in Tillage a great ſtore of Land, and ſeveral Plows kept and maintained thereupon, took all the ſaid *Farms* into his own occupation, and converted all the Lands thereto formerly uſed in Tillage into Paſture, and depopulated and pulled down Three of the *Farm-houſes*, and ſuffered the other Two to run to ruine, and to lie uninhabited, although he might have had as great, and greater Rents for them than he had before; and alſo pull'd down, and ſuffered to go to decay, and be uninhabited, a *Water-Corn-Mill*, which before groun'd ſtore of Corn weekly; and for this he was committed to the *Fleet*, Fined 4000 *l.* and at the Aſſizes in *Kent* to acknowledg his Offence, and the Decree to be then read, 100 *l.* Recompence to the Proſecutor, beſides his Coſts, and 100 *l.* to the Miniſter of the Town, 100 *l.* to be diſtributed to the Poor, and he ordered to repair, and build again within Two years, all the *Farm-houſes*, Out-houſes, and Corn-Mill, and make them fit for Habitation and Uſe, as formerly, and to reſtore the Lands formerly uſed to the Farm-houſes, and to let them at reaſonable Rents as the *County* will afford.

In *November* the *Prince Elector Palatine* dyed of the Infection of the *Plague*, having been at *Mentz*, where it raged, being eight days after the Enemies rendring of his moſt conſiderable Towns of *Frankendale*, into the Hands of the *Engliſh* Ambaſſadors.

Mich. 10 *Car.*

Star-Chamber. *Attorn' Regis per Relator. Sir* George Theobald *Knight vers'* Morley.

Reviling, challenging, and ſtriking one of His Majeſties Servants in the Court at *Whitehall.*

THe Defendant, out of malice to the Relator, and in the Dining-Hall of His Majeſties Palace of *Whitehall*, (whither His *Majeſty* and the *Queen* were then coming to Dancing) ſhaked his Fiſt, and bent his Brows at the Relator, (then attending His Majeſties coming, being one of His Majeſties Gentlemen-Penſioners) laid hands on his Cloak, ſhaked him, caught him by the Throat, called him baſe Raſcal, baſe Dunghil-Rogue, ſwore he would be reveng'd on him, and would cut his Throat, threatned to kick him out of the Houſe, and provoked and challenged him to go out and fight with him the ſaid Defendant: and the Defendant being adviſed by the *Treaſurer* of His Majeſties Houſhold, and the Comptroler, to be adviſed, and conſider where he was; and being told, that they wondred he would abuſe the Relator, being His Majeſties Servant, the Defendant ſlighted their words, anſwered them very intemperately, and called the Relator baſe fellow. And after the Dancing was over, and the King gone out of the Room, the Defendant, in like ſort as before, challenged the Relator, and after, in the Court-yard, took him by the Throat, and gave him divers blows; and for this he was committed to the *Tower* during the Kings Pleaſure,

Fined

Fined 10000 *l.* to acknowledg his Offence, and ſubmit himſelf to His Majeſty, and to Mr. *Treaſurer*, and to Mr. *Comptroler*, to pay the Relator 1000 *l.* Damage, and make ſuch Recognition to him as the Earl-Marſhal ſhould think fit and direct.

10 *Caroli.* 1000 *l.* Dam^s.

Mich. 10 *Car.*

THe Defendant *Allinſon*, at *Ipſwich*, and other Places, reported falſly and maliciouſly to the ſcandal of the Arch-biſhop of *York*, That His Majeſty, in His Journey to *Scotland*, was entertained at the ſaid Arch-biſhop's *Houſe* to His content; and at His going away, wiſhed the ſaid Biſhop to ask ſomething wherewith He might gratifie him; and that thereupon his *Grace* kneeled down, and requeſted His Majeſty, *That the Papiſts might have a Toleration for ſome Churches to exerciſe their Religion in, that His Majeſty was greatly diſcontented thereat, and confined the ſaid Arch-biſhop to his Houſe.* And the Defendant *Robins* likewiſe publiſhed thoſe ſcandalous Reports for News at *Yarmouth*. And for this Offence *Allinſon* was committed to the *Fleet*, bound to his Good-Behaviour during life, and Fined 1000 *l.* and likewiſe to be ſet in the *Pillory* at *Weſtminſter*, with a Paper on his Head declaring his Offence, and there to acknowledg his Offence, and be whipt; and after be ſet in the *Pillory* at *York*, *Ipſwich*, and *Yarmouth*, with the like Paper on his Head, and at each place to make the like acknowledgment as before. And *Robins* was committed to the *Fleet*, Fined 1000 *l.* to make an acknowledgment at *Yarmouth*, and to pay the Arch-biſhop 1000 *Marks* Damages.

Star-chamber. *Attorn' Regis vers'* Robins *& al'.*

The Parſons *and* Vicars *in the City of* London, *in the Month of* May, *preſented to His Majeſty a* Petition, *Humbly ſhewing,*

THat *the Benefices in* London *were a Hundred* Years *ſince very great; That the Decree for Tyths, now in force, provides this* 9 d. *to be paid upon every Pound rent without fraud; That notwithſtanding the ſaid Decree, (the variation of times conſidered) they are now very poor and mean, many of them not worth* 40 l. per Annum, *the moſt not* 100 l. *only one,* Chriſt-church, *a City-impropriation worth* 350 l. *That the Petitioners have not independent maintenance, and for want thereof are daily thruſt upon dangerous and great inconveniences: That this is becauſe the Petitioners have no means aſſigned in the ſaid Decree, for the diſcovering of the true value of their ſaid Rents by the Oath of the Parties, and for that many* London-*Landlords (to the defeating of the Petitioners, and indangering their own Souls) have, and daily do contrive double Leaſes, or make Proviſo's, wherein they call ſome ſmall part of the true Rent by the Name of* Rent, *and all the reſt (which yet is quarterly paid) by the Name of* Fine, Income, *or the like; which Practice, in the Year* 1620. *was ſignified to be unjuſt and Sacrilegious, under the Hands of the Reverend Biſhops, and Heads of Houſes*

The *London*-Clergies Petition to the King concerning that matter.

An. 1634.

Houſes of both Univerſities. *And laſtly, for that the Lord* Major *for the time being is our ordinary Judge, and the Petitioners generally want both ability and leizure to Proſecute and Appeal from him to the Right Honourable the Lord* Keeper, *or otherwiſe to wage Law with Rich and Powerful Citizens.*

May it therefore pleaſe the Great Patron of the Church, Your Royal Majeſty, *to take into Your Princely Conſideration theſe Preſſures and Grievances of Your Poor Clergy of* London, *with the Cauſes of the ſame, and to take ſuch courſe for Redreſs thereof, as to Your Majeſties great VViſdom and Clemency ſhall ſeem meet:*

And Your Petitioners, *&c.*

At the Court at Greenwich.

The King refers the Petition.

His Majeſty is graciouſly pleaſed to refer this Petition to the Lord Arch-biſhop of Canterbury *his Grace, the Lord* Keeper, *the Earl* Marſhal, *the Lord Biſhop of* London, *the Lord* Cottington, My ſelf, *and the Lord Chief-Juſtice* Richardſon, *or to Five or Three of Us, (whereof the Lord Arch-biſhop of* Canterbury *to be one) where VVe are to call all Parties before Us whom this Buſineſs may any ways concern, and after full hearing and examining thereof, to end it if we can; otherwiſe to make report to His Majeſty, where the impediment lies, that ſo His Majeſty may take ſuch further order therein, as in His Princely VViſdom He ſhall think fit.*

Windebanck.

Which came to a Hearing the 5*th* of *November* before the King and Council, and it is thus expreſſed in the ſaid Order.

Tyths within the City of *London.*

'THis day the Matter in difference concerning *Tyths* within 'the City of *London*, demanded of ſome particular Citizens 'then preſent, was heard by His Majeſty ſitting in Council. And 'whereas, after ſome entrance into the Cauſe, it was conceived by 'His Majeſty, that the Caſe in queſtion might concern the City in 'general, and to that end Mr. *Recorder*, and ſome Aldermen were 'required to attend, to take notice of His Majeſties Pleaſure therein: 'And foraſmuch as the Caſe in queſtion is not agreed upon, where-'by His Majeſty might proceed to hear Arguments, and debate 'thereupon; and being deſirous, out of His Princely diſpoſition, 'to reconcile the ſame, he did demand of Mr. *Recorder*, and the 'Aldermen there preſent, whether they would refer the Cauſe to 'His arbitrement: but they humbly deſired His Majeſty, in as much 'as they came not as Parties intereſſed in that Queſtion, but in obe-'dience only attended His Majeſties Pleaſure, they might have time 'to acquaint the Court of Lord *Major* and Aldermen, and Common-'Council of the City therewith, which His Majeſty willed them 'to do, and thereupon was pleaſed to give them reſpite until *Sun-'day* the ſixteenth of this Month, at which time they were to at-'tend with full Power.

'Now

10 *Caroli.*

'Now touching the particular Perſons, who did attend accor-
'ding to order, about the Cauſe, It was thought fit they ſhould be
'diſcharged of further attendance until that time.

Afterwards, on the 16*th* of *November*, another Order was made by the Council-Board to this effect.

'WHereas the Fifth of this Month, at the hearing of the
'Matter in difference, concerning *Tyths* within the City of
'*London*, demanded of ſome particular Citizens, His *Majeſty* ſit-
'ting in Council, demanded of Mr. *Recorder*, and the *Aldermen*
'then preſent, whether they would refer the Cauſe to His arbitre-
'ment? whereupon they humbly deſired His Majeſty, in as much
'as they came not as Parties intereſſed in that Queſtion, but in obe-
'dience only attended His Royal Pleaſure, they might have time
'to acquaint the Courts of Lord *Major* and *Aldermen*, and Com-
'mon-Council of the City therewith; which His Majeſty willed
'them to do, and thereupon was pleaſed to give them reſpite until
'this preſent day. They did now accordingly attend, as did alſo
'they of the other Party, *viz.* ſundry Miniſters of the City of
'*London*. And the *Recorder* of the ſaid City having related, that
'the aforeſaid Court of the Lord *Major* and *Aldermen* had been aſ-
'ſembled, and acquainted with His Majeſties Pleaſure, did farther
'repreſent unto His Majeſty, That it appeared by Record, that in
'the Reign of King *Henry* the Eighth, and in the ſame Cauſe
'which is now in agitation, upon like directions then given by the
'Council-Board, the ſaid Cauſe was propounded to their ſeveral
'Wards; and the Common-Council having received their ſeveral
'Anſwers, did thereupon ſubmit to the courſe ſet down; where-
'upon he did humbly move, whether His Majeſty would be pleaſed
'that the ſame courſe be now taken? the rather in regard the Au-
'thority of the ſaid Common-Council, is only for matter of Go-
'vernment and ſafety, not medling with the Right or Intereſt of
'any. But His Majeſty having other Preſidents as ancient as *Ed-*
'*ward* the Fourth, alledged by Mr. Attorney-General, that the
'Common-Council had ordered Buſineſs of this very nature, did
'abſolutely declare, that he would not wait for the iſſue of ſuch a
'manner of proceeding, but he would expect a direct and full An-
'ſwer from the Lord *Major* and *Aldermen*, and likewiſe from the
'Common-Council, which is the repreſentative Body of the City;
'and that if any would be refractory, and not conform themſelves,
'they ſhould ſtand to their own hazard, and that he would
'take notice as well of them, as of thoſe who would ſubmit to
'His Arbitrement. And His Majeſty was pleaſed further to declare,
'That His only end in taking this pains, was to ſettle Peace and
'good underſtanding between the Miniſters and their Pariſhioners;
'and that he looked not ſo much at any Particular, as at the Gene-
'ral, that there may be a firm Order and Accommodation well-eſta-
'bliſhed. Laſtly, His Majeſty was pleaſed to appoint this *day*
'*ſevenight*, which was the 23*d* of that *Month*, for their next atten-
'dance; at which time they were to come with full Power to give
'their laſt Anſwer.

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And afterwards the ſame Matter being taken into conſideration by the King and Council, on the 14*th* of *December*, produced another Order to this effect.

An Order concerning Tyths within the City, of *London* the 14*th* of *December*.

THis day, His Majeſty being preſent in Council, the matter in difference concerning *Tyths* within the City of *London*, and Liberties thereof, was heard at the *Board*: At which time the Lord Biſhop of *London* was there preſent, and ſome of the Miniſters on behalf of themſelves, and the reſt of the Miniſters of *London* on the one part, and ſome of the *Aldermen*, and the *Recorder* on the behalf of the ſaid City on the other part: After ſome debate did mutually ſubmit the ſaid differences to be arbitrated and ſetled by His Majeſty, which His Majeſty was pleaſed withal. And in as much as the ſaid Lord Biſhop, and the ſaid Miniſters, had now by an Inſtrument in writing, under Hand and Seal, tendered their ſaid Submiſſion to His Majeſty; It was thought fit and equal, that by an Inſtrument in writing alſo under the Common Seal of the City, the like ſubmiſſion ſhould be made by the City to His Majeſty, which the *Aldermen* and *Recorder* authorized from the City this day preſented to His Majeſty, being preſent in Council: Whereupon it was reſolved and ordered, That *Sunday* the 18*th* of *January* next ſhould be appointed for the hearing of this Cauſe at large at the Council-Table, before His Majeſty and the Lords; at which time the Parties on both ſides, with their Council learned, were to attend.

The *Dutch* and *French* Churches.

The Arch-biſhop of *Canterbury*, in his Metropolitical Viſitation, ſummoned the Miniſters and Elders of the *Dutch* and *French* Churches to appear before his Vicar-general, who had two Injunctions preſcribed by the Arch-biſhop.

Two Injunctions concerning them.

1. That all the Natives of the *Dutch* and *Walloon Congregations* in his Graces *Dioceſs* ſhould repair to their ſeveral Pariſh-Churches of thoſe ſeveral Pariſhes where they inhabited, to hear Divine Service and Sermons, and perform all Duties and Payments required in that behalf.

2. That the *Miniſters*, and all other of the *Dutch* and *Walloon* Congregations, which were not Natives and Born-Subjects to the *Kings Majeſty*, or any other Strangers that ſhould come over to them, while they remained Strangers, might have and uſe their own Diſcipline, as formerly they have done; yet it was thought fit that the *Engliſh Liturgy* ſhould be tranſlated into *French* and *Dutch*, for the better ſetling of their Children to the *Engliſh* Government.

Feb. 21. 1634. They Petition their Biſhop.

Upon the publiſhing of theſe Injunctions, the *Dutch* and *Walloon-Churches* at *Norwich* preſented an humble Petition and Remonſtrance to the Biſhop of that Dioceſs, that the ſaid Injunctions ſeemed to be oppoſite, not only to the ſundry Orders of His Majeſties moſt Honourable Privy-Council, heretofore upon ſeveral occaſions granted unto ſeveral Congregations

gations of the ſaid Strangers, but chiefly to all the Gracious Priviledges granted unto them of old, and continued during the Reign of three moſt famous *Princes*, King *Edward* the *6th*, Queen *Elizabeth*, and King *James* of Glorious Memory, and confirmed by His now Majeſties *Regal Word*, which He was pleaſed Graciouſly to give unto the Deputies of all the Strange Congregations in *England* proſtrate at His Majeſties Feet the *30th* of *April* 1625. But the Petitioners finding no Redreſs as to their Complaint by the Biſhop of *Norwich*, 16 *Caroli.*

They Petition the Arch-biſhop of *Canterbury.*

Afterwards they preſented a Petition to the Arch-biſhop of *Canterbury*, to the effect of that given to the Biſhop of *Norwich*; to which Petition the Arch-biſhop of *Canterbury* gave an Anſwer in a Letter to the ſaid *Dutch* and *VValloon* Churches at *Norwich*, Dated *Aug.* 19. 1635. to this effect.

That His Majeſty was reſolved, that His Inſtructions ſhould hold, and that obedience ſhould be yielded to them by all the Natives after the *1ſt Deſcent*, who might continue in their Congregations, to the end the Aliens might the better look to the Education of their Children, and that their ſeveral Congregations might not be too much leſſened at once; but that all of the *ſecond Deſcent* born here in *England*, and ſo termed, ſhould reſort to their ſeveral Pariſh-Churches where they dwelt, concluding his Letter in theſe words. *And thus I have given you Anſwer fairly in all your Particulars, and do expect all obedience and conformity to my Inſtructions, which if you ſhall perform, the State will have occaſion to ſee how ready you are to practiſe the obedience which you teach: And for my part, I doubt not but your ſelves, or your Poſterity at leaſt, ſhall have cauſe to thank both the State and the Church for this care taken of you; but if you refuſe, (as you have no cauſe to do, and I hope you will not) I ſhall then proceed againſt the Natives, according to the Laws and Canons Eccleſiaſtical, ſo hoping the beſt of your ſelves, and your obedience, I leave you to the Grace of God, and Reſt,*

W. Cant.

By theſe Injunctions the Forreign Churches were moleſted and diſquieted ſeveral years together, for refuſing Conformity, and ſome of their Miniſters and others of their Congregations, deſerted the Kingdom, and went beyond Seas.

Offence taken at the Arch-biſhop his ſetting-up of Pictures in the Church-windows.

This year being the very firſt year after Biſhop *Laud* his Tranſlation from *London* to *Canterbury*, great offence was taken at his ſuddain ſetting-up of Pictures in the Church-windows at his Chappel at *Lambeth* and *Croydon*, the Portraiture of them being made according to the *Roman* Miſſal, and bowing towards the Table or Altar, uſing of Copes at the Sacrament, whereupon the People made a great Clamour, that the Arch-biſhop endeavoured to ſubvert Gods true Religion, by Law eſtabliſhed in this Realm, and inſtead thereof, to ſet up Popiſh Superſtition and Idolatry; aggravating this his Action to be the greater crime, becauſe he was Primate and Metropolitan

An. 1634. of all *England*, principally intruſted with the care of Religion, who ſhould of all other Men have been moſt vigilant againſt all Popiſh Idolatrous Innovations, and not profeſſedly to ſet up a-freſh thoſe Idolatrous, Superſtitious, Romiſh, Pictures, which were by our Statutes, Homilies and Injunctions purpoſely defaced and broken down at the *beginning of Reformation*, as Monuments of Popery, Superſtition and Idolatry, contrary to the Word of God, and eſtabliſhed Injunctions of the Church of *England*.

The Arch-biſhops Defence.

But let us not be ſo uncharitable to the deceaſed, as not to mention his Defence made when he was living to a Charge of this nature, when he was afterwards queſtioned for the ſame in Parliament; therefore take what he ſaid then in vindication of himſelf, which was to this effect.

The firſt thing the Commons have in their Evidence charged againſt me, is (ſaid he) the ſetting up and repairing Popiſh *Images* and *Pictures* in the Glaſs-windows of my Chappel at *Lambeth*, and amongſt others, the Picture of Chriſt hanging on the Croſs between the Two Thieves in the Eaſt Window; of God the Father in form of a little Old Man, with a Glory, ſtriking *Myriam* with a Leproſie; of the Holy Ghoſt deſcending in form of a Dove; and of Chriſts Nativity, laſt Supper, Reſurrection, Aſcenſion, and others, the Pattern whereof Mr. *Prynn* atteſted I took out of the very *Maſs-Book*, wherein he ſhewed their Portraitures.

To which I anſwer, firſt, That I did not ſet theſe Images up, but found them there before.

Secondly, That I did only repair the Windows which were ſo broken, and the Chappel which lay ſo naſtily before, that I was aſhamed to behold, and could not reſort unto it, but with ſome diſdain, which cauſed me to repair it to my great Coſt.

Thirdly, That I made up the Hiſtory of theſe old broken Pictures, not by any Pattern in the Maſs-Book, but only by help of the fragments and remainders of them, which I compared with the Story.

Fourthly, Though the very reſemblances of them be in the Maſs-Book, yet I proteſt I never knew they were there, till Mr. *Prynn* ſhewed them in it at this Bar: it is but a meer fallacy, the Pictures which I repaired are in the Maſs-Book; *Ergo*, I took the Pattern of them out of it.

Fifthly, Mr. *Calvin* himſelf allows an Hiſtorical uſe of Images, *Inſt. l.* 1. *cap.* 11. *Sect.* 12. where thus he writes, *Neq; tamen, ea ſuperſtitione teneor*, &c.

Sixthly, Our Homilies themſelves allow an Hiſtorical uſe of Images, as appears by Page 64, 65.

Seventhly, The Primitive Chriſtians approved, and had the Pictures of Chriſt himſelf; *Tertullian* recording, That they had the Picture of Chriſt engraven on their Chalices, in form of a Shepheard carrying home the loſt Sheep on his back.

Eighthly, I hope the repairing and ſetting up of theſe Pictures is no High-Treaſon by any Law.

Ninthly,

Ninthly, Images and Pictures in Arras, or Glaſs-windows, are not againſt the Statute of 3 *E. 6. c.* 10. but Statues only. 10 *Caroli.*

To this was reply'd: Firſt, That he did not find thoſe Images there, compleat or entire, but broken and demoliſhed by vertue of our Statutes, Homilies, Injunctions fore-cited, and that at the beginning of Reformation; ever ſince which time they continued unrepaired, as Monuments of our indignation and deteſtation againſt them, like the Ruines of our Abbies and Monaſteries. Reply.

Secondly, We have here *confitentem reum*, the Arch-biſhop plainly confeſſing that we charge him with, *viz.* the repairing of the broken Images of Chriſt, the Holy Ghoſt, in Glaſs-windows; and no ways denying, extenuating, but juſtifying this Popiſh Fact of his againſt our Statutes, Homilies, Injunctions, Writers, yea, his own frequent Subſcriptions to our Homilies, and Articles of Religion: Nay Mr. *Brown*, his own Joiner, atteſted, That he, by the Arch-biſhop's directions, repaired and new-made the broken Crucifix in *Croyden* Chappel, as well as in *Lambeth* Chappel; and the Arch-biſhop plainly confeſſeth, that he had no great devotion to ſerve God in *Lambeth* Chappel, nor yet to reſort unto it, till theſe Images were repaired, and now beautified to pleaſe his Eyes.

Thirdly, That himſelf took pains, and gave directions to the Glaſiers to make up the Stories and Pictures in the Windows, out of the broken fragments remaining, and new-made them to his exceſſive Coſt, whereas he might have new glazed them with unpainted Glaſs, for the tenth part of that his painted Pictures coſt him.

Fourthly, He confeſſeth the very Portraitures of the new-furbiſhed Pictures in his Chappel to be all contained in the Maſs-Book, which we made ſo apparent to your Lordſhips, that he could not but with ſhame deny it; but proteſts he knew them not to be in it, and that he took not his Pattern out of it. To which we muſt reply, That he having noted his Maſs-Book, wherein we ſhewed them to be portrayed in every Page almoſt with his own hands, and turning this Book ſo frequently over, muſt of neceſſity ſee theſe Pictures in it, which are ſo large and viſible, unleſs we ſhall ſuppoſe him blind, or ſuch an hater of them, as purpoſely to turn his Eye-ſight from them, which is improbable; and therefore, notwithſtanding this bold proteſtation of his, we hold our Argument both true and ſolid. The new Images in his Chappel-windows exactly agree in all things with the printed ones in his Maſs-Book, which he could not but know, and ſee too, as oft as he noted or peruſed his *Roman Miſſal*; *Ergo*, He took his Pattern from the Maſs-Book in the repairing, as well as his Popiſh Predeceſſors in the firſt making of them, ſince no other Pattern hath been produced by him, by which he gave directions to new-make them but by the *Roman Miſſal.*

Fifthly, We wonder greatly, that he that hath ſo much traduced, reviled Mr. *Calvin* publickly heretofore, ſhould fly thus unto him for ſhelter now; but as he abuſed his Perſon, and Memory then, ſo he miſerably perverts and miſapplies his words now point-blank againſt his meaning. Mr. *Calvin* only affirms, That he is not ſo ſuperſtitious as to think it altogether unlawful to make any Images

of

An. 1634. of Men or Beaſts for a civil uſe, ſince Painting is the gift of God; from whence the Arch-biſhop hath inferred, *Ergo*, Mr. *Calvin* holds it lawful to make the Picture of Chriſt's Nativity, laſt Supper, Paſſion, Reſurrection, coming to Judgment; of God the Father, like an Old Man; of Chriſt on the Croſs, of God the Holy Ghoſt in form of a Dove, and Cloven Tongues; of the Virgin *Mary*, other Saints, and to ſet them up in Churches, as he did theſe Images in the Chappel: Whereas Mr. *Calvin*, in the ſelf-ſame place, in moſt poſitive terms, concludes the contrary; witneſs the very next words following thoſe he objects: *Purum & legitimum utriuſque uſum requiro, ne quæ Dominus in ſuam gloriam, & bonum noſtrum nobis contulit, ea non tantum polluantur præpoſtero abuſu, ſed in noſtram quoq; perniciem convertantur. Deum effingi viſibili ſpecie nefas eſſe putamus, quia id vetuit ipſe, & fieri ſine aliqua gloriæ ejus deformatione non poteſt*, which he proves at large. Then ſpeaking of Images in Churches, he writes, they were introduced thither, *Non judicio aut delectu, ſed ſtulta & inconſiderata cupiditate.*

This Author hath many ſuch-like paſſages in his other Works, and therefore the Arch-Biſhop's citing of him to juſtifie his Chappel-Images, argues either extreme ignorance, or falſhood.

Sixthly, Whereas he would pray in aid from our Homilies, to juſtifie the Hiſtorical Uſe of theſe Images in his Chappel, the Homilies are ſo point-blank againſt it, as we have proved, that Impudency it ſelf would bluſh to cite them to ſuch a purpoſe, eſpecially ſince the third part of the Homily againſt the peril of Idolatry, *pag.* 41, 42, 43. expreſly reſolves it unlawful to make the Picture of Chriſt, or any Perſon in the Trinity, much leſs to ſet them up in Churches.

Seventhly, For his averment that the Primitive Chriſtians approved of Images, and had the Picture of Chriſt in their Churches, and engraven on their Chalices, is a moſt notorious falſhood. For *Juſtin Martyr*, *Clemens Alexandrinus*, *Irenæus*, *Tertullian*, *Minutius*, *Felix*, *Origen*, *Arnobius*, *Cyprian*, *Lactantius*, *Gregory Nyſſen*, *Athanaſius*, *Ambroſe*, *Epiphanius*, *Euſebius*, *Hierome*, *Auguſtin*, *Hilary*, *Chryſoſtom*, *Theodoret*, *Theophilact*, and other Ancients unanimouſly agree, that the Primitive Chriſtians had no Images at all in their Churches; together with the *Councils* of *Eliberis*, *Conſtantinople*, *Toledo*, *Frankford*, and *Conſtantine* the Great, *Conſtantius*, *&c.* with ſundry other godly Emperors, utterly demoliſhed and caſt them out of Churches; as Eccleſiaſtical Authors, our own Homilies, Writers, prove at large againſt the Papiſts. *Lactantius* and other Primitive Chriſtians write expreſly, that without doubt there can be no Religion at all in that place whereſoever any Image is; whereupon *Epiphanius* rent the Image of Chriſt, or ſome other Saint, which he found in a Church, painted in Cloth, out of holy indignation, as contrary to the Authority of the Scriptures. In few words, our own Homilies againſt the peril of Idolatry, *Part* 2. *p.* 38. expreſly reſolve, that when Images began to creep into the Church, they were not only ſpoken and written againſt by godly and learned Biſhops, Doctors and Clerks, but alſo condemned by whole Councils of Learned men aſſembled together; yea the ſaid Images by many Chriſtian Emperors and Biſhops were defaced, broken

broken and deſtroyed; which Mr. *Calvin* in the place objected by the Biſhop affirms likewiſe: And therefore it is a moſt deſperate aſſertion in the Arch-Biſhop, thus falſly to affirm the contrary, point-blank againſt our Homilies and his own ſubſcription to them. And whereas he cites *Tertullian*, to prove that the Chriſtians in his days had the Picture of Chriſt upon their Chalices; we anſwer, that if the Book *De Pudicitia* be *Tertullians own*, (of which ſome doubt) yet his words import no ſuch thing, which are theſe, *A parabolis licebit incipias ubi eſt Ovis perdita a Domino acquiſita, &c. Picturæ Calicum veſtrorum, &c.* (not *noſtrorum.*) And that he hath moſt grolly abuſed *Tertullian*, your Lordſhips and his Auditory, in alledging *Tertullian* in defence of Images, and their uſe among the Primitive Chriſtians: certainly *Tertullian* is ſo far from any ſuch opinion, that he hath written a whole Book *De Idololatria*, next before this *De Pudicitia*, wherein he expreſly condemns, not only the having, but making of any Image or Picture for any uſe, and the very Arts of Carving and Painting Images, as contrary to the ſecond Commandment (as the *Jews*, *Joſephus*, *Philo* and others did before him, and the very *Turks* and *Perſians* at this day.) Take but this ſentence of his inſtead of many; *Omnis forma vel formula Idolum ſe dici expoſcit. Idolum TAM FIERI quam coli Deus prohibet: quanto præcædit, &c.* which he proſecutes at large throughout this Eloquent Book, and therefore his ſophiſtry in citing *Tertullian* for defence of Images in Churches, who is thus point-blank againſt the making of any Image whatſoever, even for civil uſes, is an intolerable, inexcuſable boldneſs.

10 *Caroli.*

Eighthly, Whereas he anſwers, that the ſetting up of theſe Glaſs-Images is no high *Treaſon* by the Statute: We grant it not to be ſo ſimply in it ſelf, neither do we urge it to be ſo, but as it tends to ſubvert our Religion, Laws, and ſet up Popery, concurs with his other practices of this nature, ſo it may, and will prove high Treaſon. The ſecond part of the Homily againſt the Peril of Idolatry, *pag.* 37. aſſures us, that the maintenance of Images hath brought in a Sea of Miſchief, horrible Schiſms, Rebellions, Treaſons; and his maintaining them hath done the like.

Ninthly, We conceive that the Statute of 3 *E.* 6. *c.* 10. which commands all Images of Stone, Timber, Alabaſter, or Earth, graven, carved or painted; which heretofore have been taken out of any Church or Chappel, or yet ſtand in any Church or Chappel, to be defaced and deſtroyed, extend to Images in Glaſs-Windows as well as others, which are but painted Earth; and that which confirms us in this opinion is, that the Homilies againſt the Peril of Idolatry (the occaſion of this Law) and the Injunctions of Queen *Elizabeth* made in purſuance of it, extend in direct terms to Images in Glaſs-Windows, as well as to Images of Stone, Timber, and the like: yea, the practice of that time in defacing the Glaſs-Images in *Lambeth* Chappel Windows (which he of late repaired) and in moſt other places, infallibly proves it; together with the Statute of 3 *Jac. c.* 5. which reckons up Images and Crucifixes, of what matter ſoever, among the Relicks of Popery, and enjoins them to be defaced: wherefore this evaſion of his is moſt falſe and frivolous, eſpecially ſince Popery may creep in at a Glaſs-Window, as well as at a Door; and our Homilies, Injunctions, Writers cenſure all of them alike, if this Statute do it not. *After*

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After the Reply was made, the Biſhop proceeded in his Defence.

The ſecond thing objected againſt me (ſaid he) as a Popiſh Innovation in my Chappel at *Lambet*, is, my removing and Railing in the Communion-Table there, Altarwiſe, with the ends of it *North* and *South* againſt the Wall; my furniſhing it with Baſons, Candleſticks, and other Furniture, and hanging a Cloth of Arras behind it, with the Picture of Chriſt and his Apoſtles, eating the Lords Supper together.

To which I anſwer; *Firſt*, That the Railing in and Placing the Table Altarwiſe, is warranted by Queen *Elizabeth*'s Injunctions, which preſcribe, that the Holy Table in every Church be decently made and ſet in the place where the Altar ſtood: Now the Altars generally in all Churches, as all Antiquity manifeſts, ſtood at the *Eaſt*-end of the Quire, *North* and *South* cloſe to the Wall, as the Tables were lately placed, and there were Railed in: this therefore is no Innovation.

Secondly, The Furniture on the Altar is no other than ſuch as is in uſe in the Kings own Chappel at *Whitehall*, and had been there uſed ever ſince, and before my time.

Thirdly, That the Arras-Piece at the Back of the Table, containing the ſtory of Chriſt's laſt Supper, was fit for that place and occaſion: that ſuch Images and Repreſentations were lawful, approved by the *Lutheran* Churches, yea by Mr. *Calvin* himſelf, for an Hiſtorical uſe, in the place fore-cited, *Inſt. l.* 1. *c.* 11. *Sect.* 12.

Reply.

To this the Commons Replied; *Firſt*, That neither Queen *Elizabeths* Injunctions, nor the Rubrick in the Common-Prayer Book, nor any Law or Canon of our Church, preſcribe the Railing in of our Communion-Tables, or placing them Altarwiſe againſt the Wall, with the ends *North* and *South*; there is no ſillable in any of them to warrant any ſuch Popiſh Innovation, preſcribed only by Popiſh Canons, as we have proved: That it cannot be proved that Altars were generally ſo placed and railed in anciently, either in *England* or elſewhere; the contrary whereof we ſhall prove anon: That the makers and executers of theſe Innovations knew beſt of any, where, and how Communion-Tables were to be ſituated by vertue of them; and they generally placed them throughout the Realm, in the midſt of the Quire or Chancel, with the ends *Eaſt* and *Weſt*, ſtanding a convenient diſtance from the *Eaſt* Wall, without any Rail about it, in which poſture they generally ſtood in all Churches, Chappels, and in *Lambeth*-Chappel it ſelf for one, ever ſince theſe Injunctions publiſhed, till this Innovating Arch-Biſhop altered this their ancient Situation. Yet both the Rubrick in the Common-Prayer-Book, the Queens Injunctions, the 82*d* Canon, Biſhop *Jewel*, Biſhop *Babington*, Doctor *Fulk*, and other of our Writers agree, that when the Sacrament is adminiſtred, it ought to ſtand in the Body of the Church or Chancel, of which more hereafter: This therefore is an Innovation, and that a Popiſh one too, tending to introduce private Maſs, to remove the Lords Table as far as poſſible from the view and audience

dience of the common People, when the Sacrament is celebrated at it. 16 *Caroli.*

Secondly, We have proved, that this Altar-furniture of Canleſticks, Tapers, Baſons, Crucifixes, and the like, was originally borrowed from the *Roman* Ceremonial, Pontifical, and the Popiſh Council of *Aix*, which enjoyn them; That the 3*d* part of our Homilies againſt the Peril of Idolatry, and Queen *Elizabeth's* Injunctions, (which he cites for placing of the Lords-Table Altar-wiſe) *Injunct.* 2. 23, 25. condemn, cenſure, aboliſh, as Superſtitious, Ethnical and Popiſh, all Candleſticks, Trendals, Rolls of Wax, and ſetting up of Tapers, for that they be things tending to Idolatry and Superſtition, which of all other offences God Almighty doth moſt deteſt and abhor, for that the ſame diminiſh moſt his Honour and Glory: Therefore the Kings Altar-furniture in His Chappel at *Whitehall*, can be no juſtification nor extenuation of his offence, who ſhould have reformed His Majeſties Chappel, (whereof he was the Dean and Superintendent according to our Laws, Homilies, Injunctions, which condemn ſuch Altar-trinkets) not conformed his own Chappel-Altar to the Kings, in theſe meer Popiſh ſuperſtitious Innovations.

Thirdly, The Arras-hanging was rather ſuited to the Crucifixes in the Glaſs-window over it, and other Images of Chriſt in that Chappel, than to the Place or Lords-Table where it hanged; the Table and Sacramental Elements themſelves, with the uſual participation of them every Month, being ſufficient to mind us of our Saviours laſt Supper, Paſſion, Death too, and to ſhew them forth till he come, (who uſed no ſuch Pictures nor Crucifixes, when he inſtituted his laſt Supper) without any ſuch Image or Crucifix; which being condemned by our Statutes, Homilies, Injunctions, Canons, Writers, as we have formerly evidenced, yea by all Antiquity, by Mr. *Calvin* himſelf, and many *Lutherans* too, ought not to have been placed there, the rather, becauſe there is no Warrant nor Precept for it, but only in the *Roman* Ceremonial, *Pag.* 69, 70. his Conformity whereto was the only ground of hanging thoſe Arras-Pictures, which well deſerves another hanging, eſpecially in an Arch-Prelate who profeſſeth himſelf a Proteſtant, and as averſe from Popery as any man whatſoever.

Defence of the Arch-biſhop to the third Innovation.

The third ſort of Innovations in my Chappel charged againſt me, is the ſetting up of a *Credentia* or Side-Table, my own and my Chaplains bowing towards the Table or Altar at our approaches to it, our going in and out from the Chappel; my Chaplains with my own uſing of Copes therein, at the celebration of the Lords Supper, and ſolemn conſecration of *Biſhops*, atteſted by Doctor *Heywood* my own Chaplain, who confeſſed, that he celebrated the Sacrament at *Lambeth*-Chappel in a Cope; That my other Chaplains did the like, and that he thought I was ſometimes preſent when they did it; That the Bread when the Sacrament was adminiſtred, was firſt laid upon the *Credentia*, from whnece he took it in his hand, and then carried it too, and kneeling down upon his Knee preſented it, laid it on the Lords Table, on which there were Candleſticks, and Tapers, but not burning, as he had ſeen them at *Whitehall*; which Mr. *Cordwell*, once my Servant, likewiſe depoſed: adding that I was preſent ſometimes when this was done, and that my Chap-

An. 1634. lains bowed down thrice towards the Altar at their approaches to it.

To which I anſwer, *Firſt*, That I took my pattern of the *Credentia* from Biſhop *Andrews* Chappel.

Secondly, That this bowing towards the Altar was uſed in the Kings Chappel, and in many Cathedrals, both in Queen *Elizabeth* and King *James* their Reigns.

Thirdly, That the uſe of Copes is preſcribed by the 24*th* Canon of our Church, *Anno* 1603. which orders thus in all Cathedral and Collegiate Churches, the Holy Communion ſhall be adminiſtred upon principal Feaſt-days, ſometimes by the Biſhop if he be preſent, and ſometimes by the Dean; ſometimes by a Canon or Prebendary, the Principal Miniſter uſing a decent Cope: This therefore is no Innovation.

Reply. To this was retorted in general, that Sir *Nathaniel Brent*, and Dr. *Featly* depoſed, there was no ſuch *Credentia*, bowing towards the Table, Altar, or any Cope at all uſed in *Lambeth*-Chappel, in his Predeceſſors time; therefore all theſe are meer Innovations: In particular it was replied, that it appears not by proof Biſhop *Andrews* had any ſuch Utenſils, Veſtments, or bowing in his Chappel, therefore this is a meer groundleſs evaſion. But admit he had, yet Biſhop *Andrews* Chappel was no Law, Canon, nor pattern for him to follow, againſt our Laws, Common-Prayer-Book, Homilies, Injunctions, which exclude ſuch Innovations: And if the Pattern of the Chappel and its Furniture which we gave in evidence were Biſhop *Andrews*, as he avers, it was as groſly Popiſh and Superſtitious as the Popes, or any Popiſh Prelates Chappel whatſoever. As for the *Credentia*, it is directly taken out of the *Roman Ceremonial* and *Pontifical*, as we have proved, the only Canons we know preſcribing it: and we find the uſe of it only in ſome Popiſh Churches, and mentioned no where but in the *Roman-Miſſal*, among the Rites of celebrating the Maſs; therefore it is a meer Popiſh Utenſil, appropriated to the Maſs, and a forerunner of it.

Secondly, This bowing to and towards the Altar, was never preſcribed by our Statutes, Articles, Homilies, Common-Prayer-Book, Injunctions, Canons, never practiſed by any till of late, but ſome few Popiſh Court-Doctors, and Cathedraliſts; never uſed by his Predeceſſor, or his Chaplains; introduced only by Papiſts at the firſt, in honour and adoration of their Breaden God upon the Altar; and enjoyned only by the *Roman-Miſſal*, Ceremonial and Popiſh Canoniſts, as we have largely manifeſted; therefore not to be juſtified or excuſed.

Thirdly, The Book of Common-Prayer, and Adminiſtration of the Sacraments, and other Rites and Ceremonies of the Church of *England* (the only Directory what Veſtments, Ceremonies are to be uſed, confirmed by our Laws) preſcribes not any of thoſe; warrants not, but excludes the uſe of Copes upon any occaſion: whereupon our Homilies and beſt Writers condemn Copes as Jewiſh, Popiſh, Paganiſh, enjoyned only by the *Roman Ceremonial*, and *Pontifical*, as we have proved, Injunctions deeming them Popiſh: yea, the third part of the Homily againſt the *Peril of Idolatry*, hath this memorable paſſage concerning them, Page 72. *And becauſe*

10 *Caroli*

becauſe the whole Pageant muſt throughly be played, it is not enough thus to deck Images and Idols (with Gold, Silver, Rich, Wanton and Proud Apparel, tempting their Paramours to wantonneſs) but at laſt come in the Prieſts themſelves, likewiſe decked with Gold and Pearls, that they may be meet ſervants for ſuch Lords and Ladies, and fit worſhippers of ſuch Gods and Goddeſſes; and with a ſolemn pace they paſs forth before the Golden Puppets, and fall down to the ground on their Marrow-bones before the honourable Idols, (and their gorgeous *Altars* too:) therefore certainly it is impudency for him thus to introduce and juſtifie them againſt theſe Authorities. Now whereas the Arch-Biſhop pleads the 24*th* Canon, made in the year 1603, to warrant the uſe of Copes in his Chappel; We anſwer, firſt, That the Canon extends only to Collegiat and Cathedral Churches, not Parochial, much leſs to Chappels: therefore it can no way warrant, but condemns this uſe of Copes in his Chappel.

Se the Homily.

Secondly, It enjoyns only the chief Miniſter to uſe a decent Cope, not a gaudy one with Images, and rich embroidering upon it ſuch, as the Copes were.

Thirdly, This Canon was never binding to any, but meerly void in Law, being never confirmed by Parliament, and croſſing both the Common-Prayer-Book and Homilies ratified by Parliament; therefore all theſe his Anſwers in juſtification of theſe Innovations diſplay his impudence to the World in juſtifying ſuch Popiſh Reliques as theſe.

Some of the *Scots* who were members of that Parliament which ſate at *Edenburgh Anno* 1633, and were then againſt paſſing of the Act for wearing of Whites, *&c.* remained full of diſcontent; and with ſome of their privity there was put forth in Print, a Pamphlet called a Libel, which reflected upon the Kings proceedings in the ſaid Parliament, charging His Majeſty with gaining of Votes by undue means and practice, to obtain the ſaid Act to paſs in that Parliament: which Libel this Year paſt through many hands till *Spottiſwood* and ſome of the Lords of the Council found out the Author, and it fell upon one *Hagg*, who eſcaped and went beyond Seas; but upon further enquiry it was faſtned upon the Lord *Balmerino*, who was preſently apprehended and committed Priſoner to the Caſtle at *Edenburgh* for Treaſon, afterwards tryed and condemned; but the King was graciouſly pleaſed to reſtore him to his honour, life and eſtate.

At *Edenburgh* there was a Printed Pamphlet diſperſed, reflecting upon the King

Lord *Balmerino* queſtioned for the ſame, and condemned.

His Father had been Secretary to King *James*, who as the Hiſtory ſaith, ſhufled a Letter of his own contriving, from King *James* to Pope *Clement*, in favour of the Catholicks, for which *Balmerino*, the Father was queſtioned by King *James*, and accuſed of High-Treaſon, and condemned to ſuffer death; but afterwards pardoned by King *James*, and reſtored to life, eſtate and honour: ſo both Father and Son had an obligation put upon them by both their Majeſties; yet the friends of *Balmerino* remained diſſatisfied with both the ſentences of death, and would be talking that which might have brought them alſo into danger.

His Father was likewiſe arraigned and condemned in King *James*'s time.

But both pardoned by King *James*.

About this time there hapned a great Battel in *Germany*, of which take a brief account, for the Victory was great.

An. 1634.

After the diſorder of the Imperial Army by *VVallenſtines* murder, the King of *Hungary*, ſon to the Emperor, was liberal and bountiful to the Souldiers, giving them plenty of money for Pay; took the Oaths of the Souldiers to be faithful to the Emperor: but the Emperor ſtood in great need at this time of help and aſſiſtance from his Allies and Friends to ſupport the Houſe of *Auſtria*, for the *Swede* at this time had got almoſt half *Germany*; whereupon the Cardinal *Infanto* came from *Milan* with the old *Spaniſh*, *Italian* and *Burgundian* Bands through all *Switzerland*: theſe Forces joyning with the Imperialiſts, marched into the Dutchy of *VVitzemburgh*; but *Nordlengen* being a ſtrong Town and Garriſon in their way gave a ſtop to their Advance.

The Cardinal *Infanto* marches with an Army to the Emperors aſſiſtance.

They came to the Emperors Camp before *Nordlingen* on the 2*d* of *September*, and alarmed the *Swedes*, who gather all their Forces together; *Guſtavus Horn* joyns with the Duke *Bernard*, and adviſes rather to ſpare the Enemy a Town or two, than to hazard the Publick Cauſe upon a Battel.

After this a Second Council of War was called, and it was reſolved again not to fight, but to ſtay till the *Rhinegrave* with his Troops, conſiſting of 4000 men, were arrived; but upon *Munday*, *September* the 4*th*, the Field-Marſhal *Cratz*, together with Major-General *Kagg*, arrived to the Aſſiſtance of the *Swedes*: this prevailed with Duke *Bernard* to put on a Reſolution to Fight, and not to ſtay the coming of the *Rhinegrave* and his 4000 men.

On *Tueſday* the 5*th* of *September* they joyned their Forces, and in the Evening advanced into the Valley under *Gopingen*, half a League from the Imperial Camp.

The Battel near *Norlindgin.*

September the 6*th*, The *Swedes* very early before ſix of the Clock aſſaulted the Imperial entrenched Army, with great fury obtained ſome Standards and Enſigns, and three pieces of Canon, took one of the Sconces upon the Hill; about which were engaged two Regiments of *Swedes*, who loſt their lives, being blown up either by a Mine ſprung, or fire given to Gunpowder in the Sconce. But this loſs did not at all ſtartle the *Swedes*, nor the Enemies great Canon from a Battery; but on they marched to the Body of the Enemy, who had the remainder of their Ordnance, laden with great and ſmall ſhot, hid behind ſome Buſhes on a riſing ground; and when the *Swedes* came ſomewhat near unto them in Battel-array, they diſcharged their Canon behind the Buſhes all at one time, which did incredible ſlaughter, and made partitions in the *Swedes* Army with men that fell like Streets. This much daunted the *Swedes*, and in this confuſion the Horſe of the Imperial Army commanded by the Duke of *Lorrain* and *John de VVert* managed their Armes ſo well, inſomuch as in two hours time they obtained an abſolute Victory over the *Swedes*. 2000 *Swedes* Horſe were cut off, 4000 *VVitzemburghers* were put to the Sword, 2000 loſt at the Sconce; The *Swedes* likewiſe loſt all their Canon, being eighty pieces of Ordnance, 300 colours, their Wagons, Bag and Baggage; and that brave ſoldier *Guſtavus Horn* was taken Priſoner. This great ſucceſs of the *Imperialiſts* anſwered for their loſs at the two Battels of *Lipſwick* and *Lutzen*.

The *Swedes* overthrown.

Duke *Bernard* was wounded, but retired to *Helbrun* to collect again the diſperſed Troops, 1000 *Swedes* Horſe eſcaped and came to

The *Swedes* rally and get up an Army.

the

the *Rhinegrave*, where, in a ſhort ſpace, the *Rhinegrave* had an Army of 6000 Men, and joyning with *Baniere*, got up a conſiderable Army, and ſtaying till Duke *Bernard* came to them, they fell into Action to offend the Enemy; and meeting with ſome of the *Infanta's* Army, which he was ſending back by the way of *Briſac*, had thereabouts a brisk Encounter with them, and though the Enemy were Armed *Cap-a-pe*; yet the *Swedes* killed many, and took many Priſoners at that time. 10 *Caroli*

This Summer Her Majeſty made a Progreſs North of *Trent*, the King accompanying Her all the way: they had no ſooner paſſed the *Trent*, but were entertained at *Bolſover* Caſtle in *Darby-ſhire* by the then Earl (afterwards Duke) of *Newcaſtle*, where nothing was ſpared which might add Splendor to the Feaſt, ſo highly Honoured with the Preſence of both their Majeſties. The Queen goes a Progreſs.

The Earl ſent for all the Gentry of the Countries of *Darby* and *Nottingham* to come and wait upon their Majeſties, who came with great joy and chearfulneſs, and were nobly Treated by the ſaid Earl, for he ſpared for no Coſts to render his Reception of both their Majeſties worthy their Royal Acceptance.

The Expence which the ſaid Earl was at in the preceding year in entertaining the King at *Welbeck*, and at this time at *Bolſover*, was eſtimated by Men of judgment to coſt the ſaid Earl 10000 *l.* and upwards.

All this was but an Earneſt of this Earls Duty and Love to his Prince, for afterwards, when the unhappy Wars broke out, he adventured Life and Fortune for the King; and his Eſtate was ſold by the Parliament as forfeited, out of which was raiſed by the ſale thereof 111593 *l.* 10 *s.* 11 *d.* Beſides, he had other great loſſes out of his Eſtate Real and Perſonal, during thoſe troubleſome times.

On the 19*th* of *July*, this year, Mr. *Thomas Cook* of *Brazen-noſe* Colledge in *Oxford*, was enjoined Recantation for uſing ſome Paſſages in a Latin Sermon, reflecting upon the *Arminian* Party, wherein he violated the Kings Edicts concerning ſuch Points of Controverſie. Mr. *Cook* ordered to recant his Sermon.

Likewiſe *William Hobbs*, Fellow of *Trinity* Colledge, for Preaching againſt Falling from Grace, *&c.* and reflecting upon the *Arminian* Party, contrary to the Kings Declaration, was on the 25*th* of *January* enjoined Recantation for the ſame, Recorded in the Univerſity Regiſter *fol.* 54. Mr. *Hobbs* ordered to make Recantation.

It was uſual in thoſe days, by the Interceſſion of the Queen, Queen-Mother, and Powerful Privy-Councellors about the King, who then were ſuſpected to be, and afterwards dyed, of the *Romiſh* Religion, *viz.* the Lord Treaſurer *Weſton*, Lord *Cottington*, and ſome others of the Privy-Council of the ſame *Romiſh* Faith, to prevail with the King to grant *Letters of Grace* to ſtay Proceedings againſt Recuſants upon any Indictment, Preſentment or Information, for or concerning Recuſancy. Here followeth the Example of Two or Three of many that were granted in that kind in that year. Some Privy-Councellors Romiſh-Recuſants.

By

An. 1634.

By the King.

A Letter of Grace from the King to a Romiſh-Recuſant.
* He was afterwards a great Actor in the *Iriſh* Rebellion.

*WHereas We have received good Teſtimony of the Loyalty, and Duty and Affection of Our truſty and well-beloved Captain** John Read; *and becauſe he may be ſubject to the Penalties of the Laws againſt Recuſancy, theſe are to ſignifie, That We are graciouſly pleaſed to extend Our Special Grace towards him; and do hereby Will and Command, That no Indictment, Preſentment, Information, or Suit in Our Name, or in the Name of any other, be henceforth commenced, proſecuted, or accepted againſt him by any of Our Officers or Subjects whatſoever, for or concerning Recuſancy. And if any ſuch ſhall happen, then Our Will and Pleaſure is, That upon ſight hereof the ſame ſhall be diſcharged and made void, or otherwiſe not prejudicial unto him. Given under Our Signet the* 13th *day of* July, *in the* 10th *Year of Our Reign.*

To all and ſingular Our Judges of Aſſize, Juſtices of Peace, Majors, Sheriffs, Clerks of Aſſize, Bailiffs, Conſtables, Informers, and all other Our Officers and Miniſters whom it doth or may concern, and to every of them.

Another Letter of Grace of the Kings to a Romiſh-Recuſant.

Charles Rex.

TRuſty and Wel-beloved, *We greet you well. We have been often and earneſtly moved by Our dear Mother the* Queen-Mother *of* France, *to extend Our Favour to Sir* Henry Bedingfeild *Knight, his Wife and Family, who are Popiſh Recuſants, and We are very willing, that for Her ſake they ſhould receive Our Favour, when they ſhall ſtand in need thereof for that Cauſe; yet we muſt ſo perform it, that it may not be of ill example to others, who are or ſhall be in the like kind obnoxious to Our Laws for Recuſancy, nor be ſcandalous to Our Government, whereof We are and muſt be tender: therefore Our Will and Command to you is, That you take knowledge of Our Pleaſure herein, and take ſpecial care to preſerve the ſaid* Henry Bedingfeild, *and his Wife, from the danger of the Laws made againſt Popiſh Recuſants, that Sir* Henry *himſelf ſhall not be impeached any way for any of his Family for being Popiſh Recuſants; for the doing whereof from time to time by ſuch ways you ſhall think fitteſt, this ſhall be your Warrant. Dated the* 20th *of* November 1634.

Another Letter of Grace of the Kings to a Romiſh Recuſant.

Charles Rex.

WHereas Our truſty and wel-beloved Sir Francis Englefeild *Knight and Baronet being a Recuſant, is thereby ſubject to Our Laws and Statutes in that caſe provided; theſe are to ſignifie Our Royal Will and Pleaſure, That no perſon or perſons ſhall at any time hereafter ſue, proſecute, implead, either by way of Indictment, Information, or otherwiſe, againſt the ſaid Sir* Sir Francis Englefeild, *for being a Recuſant, or cauſe or procure him to be indicted or convicted by vertue of any of Our Laws, or Statutes againſt Popiſh Recuſants, till*

till We ſhall ſignifie Our Pleaſure to the contrary. Given under Our Signet at Our Palace at Weſtminſter *the* 6th *day of* December, *in the* 10th *Year of Our Reign.* 10 *Caroli.*

To all Our Judges of Aſſize, Juſtices of the Peace, Majors, Sheriffs, Bailiffs, Conſtables, Headboroughs, Purſivants, and to all other Our Officers and Miniſters, whom it may or doth concern, and to every of them.

Beſides theſe Letters of Grace, Protections were uſually granted, that Courts of Juſtice ſhould not proceed againſt ſuch Popiſh Recuſants, which were ſignified by a Letter from a Secretary of State to the Judges of the Court, that they ſhould not be Eſtreated into the *Exchequer*. Thoſe Protections were in form following.

UPon ſpecial directions given by His Majeſty, and ſignified by a Letter from Mr. *Secretary* to the Right Honourable Sir *Tho. Richardſon* Knight, Lord Chief-Juſtice of His Majeſties Court of *Kings-Bench*, bearing date the ſixteenth day of *April* 1634. and ſhewed now to this Court; it is ordered by this Court, That the Recognizance taken in Court at the Seſſions of Goal-delivery, holden for the County of *Middleſex*, at *Juſtice-Hall* in the *Old-Baily*, the 4*th* day of *October* laſt paſt, wherein *Alexander Baker*, of the Pariſh of St. *Andrews* in *Holborn* in the County of *Middleſex* Gentleman, was bound to His Majeſty with two Sureties for his appearance at the Seſſions of Goal-delivery then next following, at which Seſſions he made default, ſhall not be Eſtreated, but all further Proceedings thereupon ſhall be forthwith ſtayed. 17. *Ap.* 10. *Car. p.* 157. of the Seſſions-Book.

Titles of Proclamations for the Year 1634.

A *Proclamation appointing the time when His Majeſties Subjects may approach to the Court for Cure of the Diſeaſe called the* Kings-Evil. Whitehall *the* 22*d day of* April.

A Proclamation commanding all Our Subjects, being Sea-men *and* Ship-wrights, *in the Service of any Forreign Prince or State, to* return home *within a certain time.* Greenwich *the* 5*th day of* May.

A Proclamation appointing the Flags, *as well for Our Navy-Royal, as for the Ships of Our Subjects of* South *and* North Britain. Greenwich *the* 5*th day of* May.

A Proclamation reſtraining the Abuſes in Gold-weights, fraudulently committed contrary to a former. Greenwich *the* 5*th day of* May.

A Proclamation concerning Tobacco. Greenwich *the* 19*th day of* May.

An Acquittance to be given by the Kings Commiſſioners for the Contribution-money Collected for the Repair of the Cathedral of St. Pauls.

An. 1634.

A Decree in the Star-chamber *concerning Complaints made about the ſtop and refuſal of* Farthing-Tokens.

Greenwich *the* 25*th day of* June. *A Proclamation concerning ſaving of* Fuel, *Materials, Labour, and leſſening the great annoyance of* Smoak.

Theobalds *the* 13*th day of* July. *A Proclamation concerning the well-ordering the Trade of making and ſelling of* Soap.

Hampton-Court *the* 23*d day of* September. *A Proclamation appointing the time when His Majeſties Subjects may attend to be Cured of the Diſeaſe commonly called the* Kings-Evil.

Hampton-Court *the* 17*th day of* October 10 Car. *A Proclamation againſt the keeping and uſing of* Setting-Dogs.

Theobalds *the* 13*th day of* November. *A Proclamation for Reforming and Preventing the Frauds frequently practiſed, as well in the over-weight of* Butter-Casks, *as well as in the falſe packing of Butter.*

Whitehall *the* 3*d day of* December. *A Proclamation for Reformation of the many Abuſes committed againſt the Corporation of* Gardiners.

Whitehall *the* 7*th day of* December. *A Proclamation for the better-ordering the* Tranſportation *of* Cloths, *and other* Woolen Manufactures *into* Germany, *and the* Low-Countries.

Whitehall *the* 14*th day of* December. *A Proclamation forbidding any reſort to His Majeſties Court, for Cure of the* Kings-Evil, *till* Eaſter *next.*

Whitehall *the* 20*th day of* January. *A Proclamation for the* Prizing of Wines.

Whitehall *the* 25*th day of* January. *A Proclamation for the well-ordering and ſetling the Manufacture of* Soap, *under a* Rule *and* Government.

Whitehall *the* 14*th day of* March. *A Proclamation for preſervation of* Grounds *for making of* Salt-Peter, *and to reſtore ſuch* Grounds *as are now deſtroyed, and to command Aſſiſtance to be given to His Majeſties* Salt-Peter-makers.

Hiſtorical Collections

for the Year, 1635.

The Arch-Biſhop of Canterburies *Diary.*

AND from thence forward all in firm kindneſs between *K. B.* and me.

April 9. The Arch-biſhop of *Canterburies* Diary.

May 18. *Whitſunday* at *Greenwich* my Account to the Queen put off till *Trinity-Sunday*; *May* 24. then given her by my ſelf, and aſſurance of all that was deſired by me, *&c.*

May, June, July; In theſe Months the troubles at the Commiſſion for the Treaſury; And the difference which happened between the Lord *Cottington* and my ſelf, *&c.*

Saturday July 11. *Wedneſday July* 22. two ſad meetings with *K. B.* and how occaſioned.

July 12. *Sunday*, at *Theobalds* the Soap-buſineſs was ended, and ſetled again upon the new Corporation, againſt my offer for the old Soap-boilers; yet my offer made the Kings Profit double two years after the new Corporation was raiſed: how it is performed let them look to it, whom His Majeſty ſhall be pleaſed to truſt with His Treaſurers Staff. In this buſineſs, and ſome other of great conſequence, during the Commiſſion for the Treaſury, my old Friend Sir *F. W.* forſook me, and joyned with the Lord *Cottington*, which put me to the exerciſe of a great deal of patience, *&c.*

September 2. *Wedneſday*, I was in attendance upon the King at *Woodſtock*, and went thence to *Cudſden* to ſee the Houſe which Dr. *John Bancroft*, then Lord Biſhop of *Oxford*, had there built, to be a Houſe for the Biſhops of that See for ever, he having built that Houſe at my perſwaſion.

September 3. *Thurſday*, I went privately from the Biſhop of *Oxfords* Houſe at *Cudſden*, to St. *Johns* in *Oxford*, to ſee my Building there, and give ſome directions for the laſt finiſhing of it, and returned the ſame night, ſtaying there not two hours.

September 23. I went to St. *Pauls* to view the Building, and returned that night to *Croyden*.

September 29. the Earl of *Arundel* brought an Old Man out of *Shrop-ſhire*, he was this preſent *Michaelmas*-day ſhewed to the King and the Lords for a Man of 152, or 153 Years of Age.

October 26. *Monday*, This morning between Four and Five of the Clock, lying at *Hampton-Court*, I dreamed that I was going out in haſte, and that when I came into my Outer-Chamber, there was my Servant *VV. Pennell* in the ſame Riding-Suit which he had on

An. 1635. that day ſeven-night at *Hampton-Court* with me: me thoughts I wondred to ſee him, (for I left him ſick at home) and asked him how he did, and what he made there? and he anſwered me, he came to receive my Bleſſing, and with that fell on his knees; and hereupon I laid my Hand on his Head, and prayed over him, and therewith awaked. When I was up, I told this to them in my Chamber, and added, that I ſhould find *Pennell* dead or dying. My Coach came, and when I came home, I found him paſt Senſe, and giving up the Ghoſt; ſo my Prayers, (as they had frequently before) commended him to God.

November 22. *Saturday*, *Charles* Elector Palatine came to *Whitehall* to the King.

November 30. St. *Andrews* day, *Monday*, *Charles* Prince-Elector Palatine, the Kings Nephew, was with me at *Lambeth*, and at ſolemn Evening-prayer.

December 14. *Monday*, *Charles* Prince-Elector came ſuddenly upon me, and dined with me at *Lambeth*.

December 35. *Chriſtmas-day*, *Charles* Prince-Elector received the Communion with the King at *Whitehall*; he kneeled a little beſide on the Left-hand; he ſat before the Communion on a Stool by the Wall, before the traverſe, and had another Stool and a Cuſhion before him to kneel at.

December 28. *Monday*, *Innocents-day*, about Ten at night the Queen was delivered at St. *James's* of a Daughter, Princeſs *Elizabeth*, I Chriſtened Her on *Saturday* following.

Jan. 2. *Tueſday*, *February* 2. *Candlemas-day*, my nearer care of *J. S.* was profeſſed, and his promiſe to be guided by me, and abſolutely ſetled on *Friday* after.

February 28. I Conſecrated Dr. *Roger Manwaring* Biſhop of St. *Davids*.

March 6. *Sunday*, *William Juxon*, Lord Biſhop of *London*, made Lord High-Treaſurer of *England*; no Church-man had it ſince *Henry* the 7*th*'s time: I pray God bleſs him to carry it ſo, that the Church may have Honour, and the King and the State Service and Contentment by it: And now if the Church will not hold up themſelves, under God I can do no more.

Martis viceſimo primo April' *Anno undecimo* Caroli *Regis.* *M. Goad.*

An Information in the Star-Chamber *againſt divers Perſons of* Quality, *for reſiding in Town contrary to the Kings Proclamation.*

To the Kings Moſt Excellent Majeſty.

Jo. Banks. *Ro. Shelton.* *Edw. Littleton* *W. Ayloffe.* *Jo. Bramſton.* *E. Herbert.*

SIr *John Banks* Kt. Your Attorney-General, Informeth Your Majeſty, That whereas as well the late Sovereign Lady Queen *Elizabeth*, and the late Sovereign Lord King *James*, Your Majeſties Father of Bleſſed Memory, by ſeveral Proclamations publiſhed throughout the Realm, did command, That Perſons of Livelihood and Means ſhould reſide in their Countries, and not abide or ſojourn in or about the City of *London*, and other Towns, for that hereby the

the Countries remained unſerved; and Your Majeſty did by Your Proclamation dated the Twentieth day of *June*, in the Eighth Year of Your Majeſties Reign, publickly proclaim in all the Counties of Your Realm (amongſt other things) declare, That Your Majeſty having obſerved, that of late years a greater number of Nobility and Gentry, and abler ſort of Your People, with their Families, have reſorted to the Cities of *London* and *VVeſtminſter*, and Places adjoining, and there made their reſidence than in former times, contrary to the ancient uſage of the *Engliſh* Nation, which hath occaſioned divers inconveniences: for where by their reſidency and abiding in ſeveral Countries where their Means ariſeth, they ſerved Your Majeſty in ſeveral Places according to their Degrees and Ranks in aid of Government, whereby, and by their Houſe-keeping in thoſe Parts, the Realm was defended, and the meaner ſort of Your People were guided, directed, and relieved; but by their reſidency in the ſaid Cities, and Parts adjoyning, they have not employment, but live without doing any Service to Your Majeſty, or Your People; a great part of their Money and Subſtance is drawn from the ſeveral Countries where that ariſeth, and is ſpent in the City in exceſſive Apparel provided from Forreign Parts, to the inriching of other Nations, and unneceſſary conſumption of a great part of the Treaſure of this Realm, and in other vain Delights and Expences, even to the waſting of their Eſtates, which is not iſſued into the Parts from whence it ariſeth, nor are the People of them relieved therewith, or by their hoſpitality, nor yet ſet on work, as they might and would be, were it not for the abſence of the principal Men out of their Countries, and the exceſſive uſe of Forreign Commodities. 11 *Caroli.* 1632.

By this occaſion alſo, and of the great numbers of looſe and idle People that follow them, and live in and about the ſaid Cities, the diſorders there grew ſo great, and the delinquents there, became ſo numerous, as thoſe places were not ſo eaſily governed by their ordinary Magiſtrates, as in former times; and the ſaid Cities were not only at exceſſive charge, in relieving a great number of thoſe idle and looſe People that grew to beggery, and became diſeaſed and infirm, but alſo were made more ſubject to contagion and infection; and the Prices of all kind of Victuals both in the ſaid Cities, and in divers other Places, from whence thoſe Cities were ſerved, were exceedingly increaſed, and the ſeveral Countries undefended; the poorer ſort of Your Majeſties People were unrelieved, and not guided or governed as they might be in caſe thoſe Perſons of Quality and reſpect reſided among them. Your Majeſty finding thoſe inconveniences to ariſe from thence, and foreſeeing that more would enſue if timely remedy were not provided, did further, in and by Your ſaid Proclamation, declare Your Highneſs's reſolution for the common Good of Your People, uſe all good ways for preventing of thoſe great evils; and obſerving that Your Noble Progenitors, Kings of this Realm, have uſed, when for the common profit of the Realm that was neceſſary, to command the People as well of the Clergy, as of all ſorts of the Laity, to keep reſidence at their Dwellings in the ſeveral parts of the Realm, where, for defence and good ſafety thereof, was moſt neceſſary, and to reſtrain their departure, or changing their Habitation from thence under divers

An. 1635. pains, upon the contemners of thoſe commands, Your Majeſty did theretofore, in and by Your ſaid Proclamation, ſtraitly charge and command Your Lords both Spiritual and Temporal, Your Lieutenants, and Deputy-Lieutenants of Counties, Your Majeſties Juſtices aſſigned for conſervation of the Peace, Baronets, Knights, Eſquires, Gentlemen, and all Clerks having Benefices with Cure, or Prebends, or Dignities in Cathedral, or Collegiate Churches, and all other Your Majeſties Subjects of the ſeveral Parts of the Realm, that had Manſion-Houſes, and Places of Reſidence in other Parts, and were not of Your Majeſties Council, or bound to daily attendance on Your Highneſs, Your deareſt Conſort the Queen, or Your Children, that before the end of forty days next after the publiſhing of the ſaid Proclamation, within Your City of *London*, they with their Families ſhould depart from the Cities of *London* and *Weſtminſter*, the Suburbs and Liberties thereof, and places adjoyning, and reſort to their ſeveral Counties, where they uſually reſide, and there keep their Habitations and Hoſpitality, attend their Services, and be ready for the defence and guidance of thoſe Parts, as their Callings, Degrees, and Abilities ſhould extend, upon ſuch pains as were to be inflicted upon thoſe that ſhould neglect the publick Service and Defence of the Realm, in contempt of Your Majeſties Command; and that thoſe as well thereby commanded to return to their ſeveral Countries, as thoſe which were already there, ſhould upon the ſame Pain continue the Reſidency of themſelves and their Families there, and do their Duties and Services as aforeſaid. And Your Majeſty did further, in and by Your ſaid Proclamation, declare, That it was Your Majeſties firm reſolution to withſtand ſuch great and growing evil as aforeſaid, by all juſt ways, and by a conſtant ſeverity towards the Offenders in that behalf; for which cauſe Your Majeſty gave ſuch timely warning, that none ſhould hereafter preſume to offend, nor put themſelves to unneceſſary charge in providing themſelves to return in Winter to the ſaid Cities and Places adjacent, but that they ſhould conform themſelves to Your Royal Commandment expreſſed in Your Highneſs's ſaid Proclamation, as they tendered their Duties to Your Majeſty, or the Good and Wel-fare of their Countries and themſelves; as by the ſaid Proclamation, which the one and twentieth day of the ſame Month was publickly Proclaimed in Your ſaid Cities of *London* and *Weſtminſter*, and elſe-where, more at large appeareth.

Yet nevertheleſs ſo it is, may it pleaſe Your Moſt Excellent Majeſty, That the Right Honourable *John* Earl of *Clare*, *Henry* Viſcount *Newark*, *William* Viſcount *Mounſon*, *John* Lord *Mohun*, *Thomas* Viſcount *Fitz-williams*, Lord *Tunbridge*, and *Henry* Lord *Stafford*, who hold, and long have holden, Places of Imployment under Your Majeſty in ſeveral Counties of this Realm; and Sir *Thomas Stiles* Knight and Baronet, Sir *Thomas Staples* Knight and Baronet, Sir *John Symonds*, Sir *James Stonehouſe*, Sir *John Ayres*, Sir *Anthony Bruggs*, Sir *Peregrine Bartye*, Sir *Edmond Lenthall*, Sir *Ralph Gore*, Sir *Henry Hart*, Sir *Thomas Littleton*, Sir *Thomas Thynne* Knights, Sir *Humphry Foſter* Baronet, Sir *Ralph Maddiſon* Knight, Sir *Gregory Norton* Knight and Baronet, Sir *Edward Payton*, Sir *Robert Harlowe*, Sir *John Telbye*, Sir *George Vane*, Sir *William Playter*,

11 *Caroli.*

Playter, Sir *VVilliam Hewett*, Sir *John Savage*, Sir *VVilliam Mounſon*, Sir *George VVindham*, Sir *Francis Godolphin*, Sir *VValter Devoreux*, Sir *Henry Bowſer*, Sir *Francis VVinſon*, Sir *Henry Appleton*, Sir *Thomas Pope*, Sir *John Suckling*, Sir *John Everett*, Sir *Matthew Mince*, Sir *VValter Smith*, Sir *Francis Thornehill*, Sir *Michael Sands*, Sir *Edward Bullock*, Sir *Thomas Fanſhawe*, Sir *Thomas Cannon*, Sir *Henry Compton*, Sir *Baſil Brooke*, Sir *John Ogle*, Sir *Robert Napper*, alias *Tundye*, Sir *Henry Atkin*, Sir *David Roberts*, Sir *Thomas VValſingham*, Sir *Thomas Harlowe*, Sir *Henry Gilford*, Sir *Theobald Gorge*, Sir *Lenthropp Francke*, Sir *Fowke Grivell*, Sir *Thomas Gardiner*, Sir *Peter Oſborne*, Sir *Robert Needham* Knights; *John Brownlowe*, *Thomas Pitts*, *Thomas Luſon*, *Richard Moyle*, *Edmond Pye*, *Richard Griffith*, *George Laſſells*, and about a Hundred Eſquires more, and divers Counteſſes, and Ladies of Quality, as the Counteſs of *Oxford*, Dame *Jane Lambert*, Dame *Ellenor Terrhet*, &c. *John Board*, *Edmond Bradſhawe*, *George Muſtion*, *Simon Everye*, *VVilliam Tyrwell*, *Thomas Sandye*, *John Dennye*, *Thomas VVytheringe*, *Richard Bellamy*, *John Forteſcue*, *Valentine Caſtillian*, *Richard Price*, *John Pymme*, *VVilliam Atkinſon*, *James Joſſee*, *Thomas VValler*, *James Greene*, *VVilliam Quatkins*, *Thomas Vachill*, *Thomas VVroughton*, *John Cowper*, *Thomas Mathewe*, *Edmond Nicholſon*, *John George*, *James VVetherbone*, *John Hambleton*, *Charles Care*, *Edward Bennet*, *Hugh Fulwood*, *John Light*, *Francis Cave*, *Thomas Blake*, *Thomas Gifford*, *Geoffrey Brown*, *Richard Brent*, *Robert Fiſte*, *Daniel Roper*, *VVilliam Mowre*, *George Therley*, *Richard Foſter*, *Thomas VVinchfeild*, *Robert Hatton*, *Richard Vane*, *Thomas Arrundel*, *James Belfore*, *VVilliam Mathews*, *Thomas Gotts*, *Sturley Bowes*, *Nicholas Stonehouſe*, *Robert Lovell*, *John Borndell*, *Edward Edwards*, *Roger North*, *John Nevill*, *Richard Butler*, *Robert Brewſter*, *Giles Foſter*, *John Glover*, *Henry Johnſon*, *John Carrell*, *Edward Eldrington*, *Thomas Ellis*, *Humphry Oaker*, *John VVebb*, *Peter Honywood*, *Robert Jaſon*, *Edward Rookewood*, *James Barker*, *John Chamberlyn*, *Rich*, *John Pepes*, *John Keeling*, *Adams*, *Charles Cockaine*, *George Bowers*, *Henry Oxford*, *George Courtopp*, *Proſper Raynsford*, *Abraham Blackleich*, *Hugh Awdley*, *John Griffith*, *Edmond Cotton*, *Robert Cutts*, *John Adye*, *Richard VVhite*, *John Pinchback*, who ſerve in ſeveral Offices and Places in ſundry Counties of this Your Realm, and ought not to deſert their Countries or Places where their Revenue ariſeth, and are fit and able to do Your Majeſty and the Realm ſeveral Services in their Countries: And Counteſs of *Oxon*, Dame *Jane Lambert*, Dame *Ellenor Terrett*, Dame *Urſula Barty*, Dame *Chriſtian Maven*, Dame *Deborah Mowdye*, Dame *Alice Butler*, Dame *Lucie*, Dame *Kinſmel*, Dame *Egerton*, Dame *Anne Everett*, Dame *Urſula Bartye*, Dame *Jane Hannagh*, Dame *Frances Manwood*, Dame *VVilford*, Dame *Gardiner*, Dame *Mary Offley*, Dame *Mountague*, Dame *VVinter*, *Anne Cotton* Widow, *Grace Dennet*, *Philippa Gill* Widow, *Margaret Cooke*, *Elizabeth Murrey*, and divers others, who ſtill ſecretly remain, and abide within the ſaid Cities of *London* and *VVeſtminſter*, and the Suburbs thereof; whoſe Names, when they ſhall be diſcovered, Your Majeſties Attorney prayeth, he may have liberty to inſert into this Information: and none of them are of Your Majeſties Council or Servants, or Servants

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vants to Your Deareſt Conſort, the Queen, or Your Children.

All which ſaid Perſons before-mentioned have divers Manors, Lands, Tenements, and Hereditaments in ſundry Counties of this Your Majeſties Realm of *England*; and albeit all the ſaid Parties are able at their pleaſure to provide for themſelves meet Places of habitation in other places, than the City of *London* and Places adjacent, and other Cities and Corporate Towns, and be able to keep Houſe, and relieve and comfort poor and needy People in ſeveral Parts; yet have all of them, being more led and guided by their own Wills, than any ways affected to yield obedience to Your Majeſties Proclamation, unlawfully agreed together how, and in what manner to oppoſe, reſiſt, and withſtand Your Majeſties ſaid Proclamation, and Royal Pleaſure therein expreſſed; and have had ſeveral Meetings, and therein adviſed and conſulted, how and in what manner they might effect the ſame, and have promiſed each other to aid, aſſiſt, and countenance each other in ſuch their contempt and diſobedience. And the ſaid parties afore-named, according to their ſaid Agreements, unlawfully, and contrary to the tenor of Your Majeſties ſaid Proclamation, and in contempt thereof, did ſeverally and reſpectively ſtay, reſide, and inhabit in the ſaid Cities of *London* and *Weſtminſter*, and in the Suburbs and Places near thereunto adjoyning, with their Families, for the ſpace of many Months after the publiſhing of the ſaid Proclamation, and after the forty days therein mentioned were expired, though they had Houſes and Places of Reſidence in ſeveral Counties of this Your Majeſties Realm of *England*, as aforeſaid, with Lands of good value, and were able in other places to provide Places of habitation where they might, and ought to reſide for Service of Your Majeſty, according to their Rank, and to guide, direct, and relieve the meaner ſort of Your Majeſties People, and to ſerve in the ſeveral Places and Offices, wherein they were truſted, (as by the ſaid Proclamation they were enjoyned to have done) and have made ſhew of leaving the ſaid Cities and Places adjacent, and reſorted into Cities and Corporate Towns abroad, and there made ſmall ſtay, and returned again to the ſaid Cities and Places adjoyning: and by means of ſuch their ſtaying and reſiding in and about the ſaid Cities of *London* and *Weſtminſter*, and Suburbs thereof, thoſe Places have been diſordered and diſturbed, and the Service of Your Majeſty and Your People in the ſeveral Countries, have been neglected and undone. And the ſaid Parties afore-named, long after the ſaid forty days were expired, being occaſioned by ſome neceſſary Buſineſs and Imployments of their own to repair unto their Houſes, or other Places in ſeveral Counties in this Your Majeſties Realm, did moſt unlawfully, and contrary to Your Majeſties ſaid Proclamation, and in contempt thereof, in further execution of ſuch their unlawful Agreements, and in performance of ſuch unlawful Promiſes as they had made the one to the other, as aforeſaid, after ſuch time as they had ſeverally diſpatched their own occaſions in the Country, did contemptuouſly return again to Your Majeſties ſaid Cities of *London* and *Weſtminſter*, and the Suburbs thereof, where they have ever ſince, and do ſtill remain and dwell, with themſelves and their Families, in high contempt of Your Majeſty, and

and contrary to the tenor of the ſaid Proclamation, and againſt the Laws; all which ſeveral unlawful Meetings and Agreements, Treſpaſſes, Contempts, and other the Offences and Miſdemeanors aforeſaid, are of a high nature, and deſerve ſevere and exemplary puniſhment, and remain unpardoned. May it pleaſe Your Majeſty to grant Your Majeſties Writ of *Subpœna* to be directed to the ſaid *John* Earl of *Clare*, *Henry* Viſcount *Newark*, *William* Viſcount *Mounſon*, *John* Lord *Mohun*, *Thomas* Viſcount *Fitz-williams*, Lord *Tunbridge*, *Henry* Lord *Stafford*, Sir *Thomas Stiles*, Sir *Thomas Staples*, Sir *John Symonds*, Sir *James Stonehouſe*, and to all the Perſons before-named, commanding them, and every of them, at a certain day, and under a certain Pain therein to be limited, perſonally to be and appear before Your Majeſty, and the Lords of Your Majeſties Honourable Privy-Council, in Your Majeſties High Court of *Star-Chamber*, then and there to anſwer the Premiſſes, and to ſtand to and abide ſuch further Order and Direction, as to Your Majeſty and Your ſaid Council ſhall be thought meet. And Your ſaid Attorney ſhall pray for Your Majeſties long and proſperous Reign over Us.

11 *Caroli.*

Examinatur & concordat cum Originali.

Hooker.

A Letter to the Arch-biſhop of *Canterbury*.

May it pleaſe your Grace,

WE have put our Brother the Biſhop of Roſs *to the pains of a long Journey, for aiding the* Liturgy *and* Canons *of the Church, and as we have found your Graces Favour both to our Church in General, and our ſelves in divers Particulars, for which we are your Graces Debtors, ſo we are to entreat the continuance thereof in this, and our common Affairs.* We all wiſh a full Conformity in the Churches; *but your Grace knoweth, that this muſt be the* Work of Time. *We have made, bleſſed be God, a* further Progreſs, *than all have here expected in many years, by His Majeſties Favour, and your Graces Help; and hope ſtill to go further, if it ſhall pleaſe God to continue your Grace in Health and Life, for which we pray continually. And ſo remitting all things to our Brothers Relation, we take our leave.*

From my Lord of St. *Andrews* and other Biſhops about the *Scotiſh* Liturgy and Canons.

Dated *April* 2. 1635.

Your Graces affectionate
Brothers and Servants,

St. *Andrews*,
Glaſcow,
J. B. of *Murray*,
Ad. B. of *Dunblane*,
Tho. Brechine.

Thomas

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Thomas *Lord* Coventry, *Lord Keeper of the Great-Seal of* England, *his Speech at the delivery of his Charge, as he received it from his Majeſty, to all the Judges of* England, *Judges of Aſſize in the* Star-Chamber, *June* 17. 1635.

June 17. 1635. The Lord Keeper *Coventry's* Speech to the Judges in the *Star-Chamber.*

My Lords the Judges,

'THe Term being done and ended, the Aſſizes near at hand, 'you are to divide your ſelves for your ſeveral Circuits. 'Circuits are for the ſervice of the King, and the good of the peo-'ple. They are the execution of the Kings Laws, and the admi-'niſtration of Juſtice. In the Term the people follow and ſeek af-'ter Juſtice, in the Circuit juſtice followeth and ſeeketh after the 'People. So gracious is the frame and conſtitution of the Kings 'Government, that twice a-year, at the leaſt, Juſtice followeth the 'Subjects home to their own Doors, which as it is a great eaſe of 'the trouble, charge and travel of the Country: ſo it giveth the 'People a better knowledge of Juſtice, and the ends of it, that 'they may bleſs God and the King for the ſame. It hath been 'the cuſtom, that before your Circuit you ſhould receive ſuch Di-'rections, as the King, or his Council think ſeaſonable to impart 'unto you for the Service of the King, and Weal of the People; 'in the declaring whereof, I ſhall ſay but little of the Juſt Acts 'you are to do between Party and Party, only that you do equal 'Right between Poor and Rich, the particulars are left unto your 'ſelves, as they happen in your Circuits: but ſince you are ſent by 'the King to hear the cauſes of the people, it is his Majeſties 'pleaſure that you ſo hear and order, that they may have no cauſe 'to complain to His Majeſty, either for denial, or for delay of 'Juſtice. Of the tryal of Capital Offenders I ſhall ſay as little; 'that part of Juſtice moveth in a frame, and if all Officers under 'you did their parts, you ſhould walk in ſo ſtreight a path, that 'you would find it very hard to tread awry; therefore you had need 'to heed them narrowly, leſt they prevent Juſtice.

'Look to the corruptions of the Sheriffs and their Deputies; 'the partiality of Jurors; the bearing and ſiding with men of Coun-'tenance and Power in their Country: when you meet with ſuch, 'your proceedings ought to be ſevere and exemplary againſt them, 'otherwiſe Juſtice ſhall be overbron, howſoever you in your own 'Perſons bear your ſelves with never ſo much uprightneſs. And 'becauſe the time of Aſſizes is very ſhort, and expireth in a few 'days, it is neceſſary, that you afford as much time as may be, unto 'thoſe buſineſſes that are moſt general, and moſt concern the pub-'lick. The Tryal of *Niſi prius*, and particular cauſes, they are in 'the number of thoſe things that are not to be left undone; but 'thoſe things that concern the general and publick good, you are 'to account them as the weightier matters of the Law, and there-'fore you are to take them into prime and chief care and cogitation. 'Now, among thoſe I ſhall commend unto you, in the firſt place, 'the preſenting and convicting of Recuſants: for as it concerneth 'Religion, ſo it hath Relation to His Majeſties profits, which are

'two

11 *Caroli.*

'two great Motives. To which you may add a third, becauſe the 'King hath, many years ſince, aſſigned thoſe Forfeitures to the pub-'lick defence.

'2. In the next place, I do require you, that you make a ſtrict 'inquiry after Depopulations and Incloſures; a crime of a crying 'nature, that barreth God of his Honour, and the King of His Sub-'jects; Churches and Houſes go down together. His Majeſty 'knoweth, and taketh notice, that according to former directions 'given to you in this place, you have given it in charge unto the 'grand Inqueſts to inquire, but to little effect; and without doubt, 'the Free-holders of *England* do hate and deteſt them. Depopu-'lation is an oppreſſion of a high nature, and commonly done by 'the greateſt Perſons, that keep the Juries under and in awe; and 'that is the cauſe there are no more preſented and brought in 'queſtion: but howſoever your Charge and Inquiry, touching this 'point, hath not taken effect worthy His Majeſties Care, and your 'Pains; yet His Majeſty willeth, that you do not ceaſe, but inquire 'on ſtill: for it is His Reſolution, againſt all oppoſition to make all 'men ſee, that he hath a care of this over-ſpreading evil, and of 'the means of his People; to have Churches and Towns demoli-'ſhed, and his People eaten up like Bread, to ſatisfie the greedy 'deſires of a few, who do waſte as profuſely, as they do gather to-'gether unconſcionably, and bring unto their Poſterity that Wo, 'which is pronounced to thoſe that lay Houſe to Houſe, and Field 'to Field, to dwell alone in the midſt of the Earth.

'3. The next thing that I ſhall mention to you is, the recti-'fying, and reforming of Ale-houſes and Tipling-Houſes; and thoſe 'I account one of the greateſt peſts of the Kingdom. *Firſt*, There-'fore let none be enabled, either to ſet up, or continue without Li-'cenſe. There are a kind of People that do take upon them Li-'cenſes, Recognizances, or Laws, or what you will; who have been 'a great deal the worſe, becauſe they ſee a great multitude tolera-'ted, that have no Licenſe. And for the Licenſed Ale-houſes, let 'them be but a few, and in fit places; if they be in private Cor-'ners, and Ill-places, they are become the Dens of Thieves; they 'are the publick ſtages of Drunkards and diſorder. In Market-'Towns, or in great Places, or Roads, where Travellers come they 'are neceſſary.

'Next unto this, let thoſe that be Licenſed, be held ſtrictly ac-'cording to the Law. It hath been obſerved, and very truly, that 'in the Taverns, Inns, and Ale-houſes in *England*, by the falſhood 'of their meaſure, and unjuſt prices, they have drawn more from 'the Gueſt, than out of the ſizes of Ale and Beer is exacted by the 'States in *Holland*. A ſtrange thing! that People for a publick 'Work, for any thing that is Good, ſhould be loth to part with 'any thing; and yet with open eyes to ſee themſelves deceived 'by ſuch baſe and lewd people.

'Next unto this, let care be taken in the choice of Ale-houſe-'keepers, that it be not appointed to be the Livelihood of a great 'Family; one or two is enough to draw Drink, and ſerve the Peo-'ple in an Ale-houſe; but if 6, 8, 10, or 12 muſt be maintained by 'Ale-houſe-keeping, it cannot chooſe but be an exceeding diſorder, 'and the Family by this means is unfit for any other good works,

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'or employments. I have not skill enough to underſtand all the 'inconveniences that come from this one Ill-fountain, and my Me-'mory will not contain what I have ſo many times obſerved of 'them my ſelf; but your Lordſhips have a knowledge and experi-'ence of them, therefore I will leave them unto you. Only this, 'becauſe in many places theſe ſwarm by the default of the Juſti-'ces of Peace, that ſet up too many; and there are none (except 'your ſelves at the Aſſizes) all the year long can meet with this 'evil, but the Juſtices of the Peace: and if the Juſtices of Peace 'will not obey their charge herein, certifie their default, and Names, 'and I aſſure you, they ſhall be diſcharged. I once did diſcharge 'two Juſtices for ſetting up one Ale-houſe, and ſhall be glad to 'do the like, upon the like occaſion.

'4. In the next place I will commend unto you the puniſhment 'of Vagabonds and Wanderers, to rid the Ale-houſes of ſuch un-'ruly Gueſts; it would make ſome way of amendment to thoſe 'Ale-houſes: and it cannot be denied but the Law hath appoint-'ed hands enow to do this work; the Conſtable, Headborough, 'Tithingmen, and the reſt of the inferiour Officers, and Watch-'men, who may do all with a particular Warrant from the Juſti-'ces of the Peace: and the Juſtices of the Peace are bound to call 'them to an account, and puniſh them for their neglect. If this 'were done, and other Officers choſen as they ought to be (not 'people of little wealth, and as little underſtanding) but that they 'were elected out of the better ſort of Yeomanry, and the Wathces 'kept by able-men; I am aſſured theſe looſe people that wan-'der up and down would quickly be gone: therefore you may do 'well to let it be known in the Country, that the Lords of Leets, 'and thoſe that have the Election of Conſtable and Officers, they 'are by the Law anſwerable for their Choice. There have been 'Precedents, that where an inſufficient Coroner hath been choſen 'by a County, the whole County hath been Anſwerable to the 'King for the Coroner's fault; and if the Lords of Leets, and their 'Homagers, and thoſe that make choice of the Conſtable and Of-'ficers, were ſometimes awakened by ſome ſeizing of their Leets, 'or Fines, or *Quo Warranto*, I make no doubt but the Countries 'would be better ſerved many years after, for ſome ſuch ſervice 'done. Therefore I could wiſh, that this were made known to 'the Country, that the Lords, and thoſe that chooſe them were 'Anſwerable for their default.

'5. Now for the bringing of looſe people in order, the Houſe of 'Correction had need to be looked unto, and be put in readineſs, 'that thoſe that are Idle may not want work; *Ducere Volentes*, '*Trahere Nolentes*. And for the Houſes of Correction (as it is in 'ſome Countries) it were convenient they were placed near the 'Gaol, that not only Idle perſons, but that the Priſoners of the 'Gaol might be made to eat the labour of their own hands. This, 'as it hath been formerly, ſo it is now commended by His Maje-'ſty to ſee it effected as ſoon as may be.

'6. The binding of Apprentices is a thing fit to be preſſed 'throughout all the Circuits. Oppoſition hath been made againſt 'it by ſome, though without any ground, or Law. Sometimes 'the Parents are not willing to leave their Children, though they

'have

'have not meat to feed them at Home; ſometimes the Pariſhio-
'ners not willing to give them Cloaths, and ſometimes the Maſters
'refuſe them, and thoſe that bind them are negligent: but all
'theſe muſt be over-ruled, and made to ſmart for their oppoſition.
'In a word, you are to call upon all to whom it belongeth, but
'eſpecially the Juſtices of Peace to ſee His Majeſties Printed Or-
'ders be put in execution. You are to ſatisfie your ſelves what
'Juſtices of the Peace are diligent in it, and who neglect it, and ſo
'to certifie to the Lords of the Council.

'7. I have but one thing more to give you in charge, and it is
'a thing of great weight and importance. It concerneth the Ho-
'nour of His Majeſty and the Kingdom, and the ſafety of both.
'Chriſtendom is full of Wars, and there is nothing but rumors of
'Wars. What hath been done of late years abroad by Fire and
'Sword, it were a pity and grief to think of; yet we have had the
'goodneſs of God, and His Majeſties Providence all this while,
'and have enjoyed a moſt happy Peace and Plenty. As it is a good
'Precept in Divinity, ſo it holdeth in Polity too —— *Jam Proxi-*
'*mus Ardet*; which if we obſerved to defend our ſelves, it would
'be a warning to all Nations, and we ſhould be the more aſſured
'to enjoy our Peace, if the Wars abroad do make us ſtand upon
'our Guard at home. Therefore no Queſtion, it hath ever been ac-
'counted the greateſt wiſdom for a Nation to Arm, that they may
'not be inforced to fight; which is better then not to Arm, and
'be ſure to Fight. The one is Providence, the other is Ne-
'ceſſity. Therefore His Majeſty in theſe doubtful times, hath not
'only Commanded, that all the Land-Forces of the Kingdom ſhould
'be ſet in Order and Readineſs, but to ſet to Sea a Royal Fleet, at
'His Majeſties great charge, but with the Aſſiſtance of the Ma-
'ritain-places of this Kingdom. The cauſes, occaſions and times
'of War, with the preparation and ordering of them, is proper
'to the King; and dutiful obedience in ſuch things doth beſt be-
'come the Subject: and yet His Majeſty hath vouchſafed, even by
'his Writs, to declare enough to ſatisfie all well-minded men, and
'to expreſs the clearneſs of His Princely Heart in aiming at the
'general good of His Kingdom. The Dominion of the Sea, as it is
'an ancient and undoubted right of the Crown of *England*, ſo it
'is the beſt ſecurity of the Land; for it is Impregnable, ſo long as
'the Sea is well-guarded: therefore, out of all queſtion, it is a
'thing of abſolute neceſſity, that the guard of the Sea be exactly
'looked unto; and thoſe Subjects, whoſe minds are moſt fixed
'upon the Honour of the King and Country, will with no pati-
'ence endure to think of it; that this Dominion of the Sea, which
'is ſo great an Honour, ſhould be either loſt or diminiſhed: be-
'ſides, for ſafeties ſake, the Dominion of the Sea is to be kept, and
'the Sea guarded.

'The *Wooden-Walls* are the beſt Walls of this Kingdom: and if
'the Riches and Wealth of the Kingdom be reſpected, for that
'cauſe the Dominion of the Sea ought to be reſpected; for elſe
'what would become of our Wool, Lead and the like, the prices
'whereof would fall to nothing if others ſhould be Maſters of
'the Sea. There is a caſe in the Book of Aſſize, 43. which put-
'teth me in mind of certain men, that went down into the Coun-

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'try, and carried a report, that no Wooll should pass over the Sea 'that year; upon this they all fell to so low Prices, that the men 'that carried the Report were Questioned and Fin'd. Now if a 'Report alone, and that a false one too, wrought such an effect 'upon the Woolls of *England*, think what would be wrought by a 'real loss of the Dominion of the Sea in all our Commodities, if 'our Trade should be at the Command of other Princes and States. 'Therefore as His Majesty out of His Great Wisdom, hath found 'it expedient to set to Sea that Fleet, that is now upon the Sea; 'so His Majesty being engaged, both in His Honour, and the Ho-'nour of the Kingdom, he findeth it to be of absolute necessity 'to strengthen this with a greater strength, and more Shipping 'the next year. Therefore upon advice he hath resolved, that he 'will forthwith send forth new Writs for the preparation of a grea-'ter Fleet the next year; and that not only to the Maritime Towns, 'but to all the Kingdom besides: for since that all the Kingdom is 'interessed, both in the honour, safety and profit, it is just and rea-'sonable, that they should all put to their helping hands.

'Now that which His Majesty requireth from you, and doth com-'mand is, That in your Charges at the Assizes, and in all places 'else, where opportunity is offered, you take an occasion to let the 'People know how careful and zealous His Majesty is to preserve 'his own Honour, this Kingdom, and the Dominion of the Sea, 'and to secure both Sea and Land by a powerful Fleet, that foreign 'Nations may see, that *England* is both able and ready to keep it 'self, and all its Rights. And you are to let them know how just 'it is, that His Majesty should require this for your defence, and 'with what Alacrity and Cheerfulness they ought, and are bound 'in Duty to contribute unto it; that foreign Nations may observe 'the Power and Readiness of this Kingdom, which will make them 'slow to contend with us, either by Sea or Land; and that will be 'the best way to confirm unto us a firm and sure Peace. This is 'the substance of all that which I received in Commandment from 'His Majesty. There are many things else that concern the pub-'lick; but your Judgements are well known in them. These are 'the particulars I had Command to mention unto you; so I will 'trouble you no farther, but leave them to your Grave Considera-'tions.

July 21. **A restraint of the King's Subjects** *departing out of the Realm without License.*

FOr as much as it is one of the Principal Duties of all the Kings Subjects to attend at all times, the Service and Defence of their King and Native Country, when they shall be thereunto required; and foreseeing what danger might ensue to this State, if People might at their pleasure pass or depart out of this Realm into foreign Parts: for prevention whereof, the King doth Command and forbid all his Subjects, that they, nor any of them, other than Soldiers, Mariners, Merchants and their Factors, and Apprentices, shall at any time, without the *King's License*, or of six of the Privy-Council, depart out of this Kingdom, or any the King's Dominions into the Kingdom, or Country of any Foreign Prince, State or Potentate.

Whereas

11 *Caroli.*
July 26.
For the ſuppreſſing of Prophane *curſing and Swearing.*

WHereas at a Parliament held at *Weſtminſter* the 9*th* of *February*, in the 21*ſt* year of King *James*, it was Enacted, That no Perſon, or Perſons, ſhould from thenceforth prophanely Swear or Curſe, under the penalties therein contained; We taking into Our Princely Conſideration the great increaſe of thoſe ſins, which are more audacioully practiſed and frequently committed by looſe and wicked perſons; hath therefore for the better ſuppreſſing thoſe odious ſins, by Letters-Patents, dated the 21*ſt* of *July* laſt paſt, erected an Office for the receiving of the Forfeitures incurred by ſuch Prophane Swearers and Curſers: and hath thereby appointed *Robert Leſley* Eſquire, one of the Gentlemen of the Kings Privy-Chamber; by himſelf and his Aſſigns, that he ſhall in every Pariſh within this Kingdom attend that Service and Office, for a certain number of years therein contained; and ſhall and may receive the Penalties appointed by the ſaid Statute, from all Perſon and Perſons offending againſt the Tenure of the ſaid Act; and that the monies ariſing thereby ſhall be paid to the Biſhops of the Dioceſſes, to be diſtributed among the Poor of the ſeveral Pariſhes. And all perſons employed herein ſhall be exempted and freed from bearing any other Office, or Charge in the Pariſhes where he and the reſt ſhall dwell.

July ult.
The King ſettles the *Letter-Office* of *England*, and *Scotland.*

TO this time there having been no certain or conſtant Intercourſe between the Kingdoms of *England* and *Scotland*, His Majeſty hath been pleaſed to Command his Servant *Thomas Witherings* Eſquire, His Majeſties Poſt-maſter of *England* for foreign Parts, to ſettle *one Running-Poſt*, or two, to run night and day between *Edenborough* in *Scotland* and the City of *London*, to go thither and come back again in ſix days; and to take with them all ſuch Letters as ſhall be directed to any Poſt-Town in the ſaid Road, and the Poſts to be placed in ſeveral places out of the Road, to run, and bring and carry out of the ſaid Roads the Letters as there ſhall be occaſion, and to pay two-pence for every ſingle Letter under fourſcore Miles; and if one hundred and forty Miles, four-pence; and if above, then ſix-pence. The like rule the King is pleaſed to Order to be obſerved to *Weſt-Cheſter*, *Holyhead*, and from thence to *Ireland*: and alſo to obſerve the like Rule from *London* to *Plimouth*, *Exeter*, and other places in that Road; the like for *Oxford*, *Briſtol*, *Colcheſter*, *Norwich*, and other places. And the King doth Command, that no other Meſſenger, Foot-Poſt, or Foot-Poſts ſhall take up, carry, receive or deliver any Letter, or Letters whatſoever, other than the Meſſengers appointed by the ſaid *Thomas Witherings*; except Common known Carriers, or a particular Meſſenger to be ſent on purpoſe with a Letter to a Friend.

Whereas

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Auguſt 24. The King declares his Royal Grace and Pleaſure to confirm to his Subjects their *Defective Eſtates*, in their Lands and Poſſeſſions, by His Commiſſion lately renewed and enlarged to that purpoſe.

WHereas for the good of the Subjects the King hath been graciouſly pleaſed to renew and enlarge his former Commiſſion of Grace, and hath thereby Authorized the Lords, and others of His Privy-Council, and ſome of the Judges and Learned Council to Sell, Grant and Confirm to the People their Defective Eſtates, Poſſeſſions and Titles, being void by inſufficient Grants, or By-Patents of Concealments; and notwithſtanding the Subjects ſlackneſs in taking hold of that favour, yet the King, out of a deſire to ſettle His Subjects in their Eſtates and Poſſeſſions, is once more pleaſed, to make known theſe His Royal Intentions of favour to ſuch as ſhall timely embrace the ſame, upon moderate Compoſitions, and that they repair to the Kings Commiſſioners in *Fleet-ſtreet* before *Hillary Term* next; and ſuch as do neglect, the courſe of Law ſhall be taken againſt them, to reduce thoſe Lands to the Crown again.

The Caſe of the Church-Wardens of *Beckington* in *Somerſetſhire*.

THe Church-Wardens of *Beckington* in *Somerſetſhire* were *Excommunicated* by the Biſhop of *Bath* and *Wells*, for refuſing to remove and Rail in the Communion-Table, and pull down the Seats that ſtood above at the *Eaſt* end of the Chancel. They *appealed* to the *Arches*, and after much ſolliciting, procured from Sir *John Lamb*, Dean of the *Arches*, a Letter to the Biſhop to *abſolve* them for a certain time; which he did for a few Weeks, and afterwards excommunicated them *again*. The Church-Wardens *appealed* to the Arches the ſecond time, with a Petition to the Arch-Biſhop, and a certificate from the Pariſh, that their Communion-Table had ſtood time out of mind in the midſt of the Chancel, being the moſt convenient place; and that *near Threeſcore years* ago the Pavement of the Chancel, whereon the Table ſtood, was new made and raiſed a foot above the reſt of the Chancel-ground, and incloſed with a Decent Wainſcot-Border, and none went in thereat but the Miniſter, and ſuch as he required. Their Appeal was rejected, and they threatned with the *High-Commiſſion*, and commanded to obey their *Dioceſan*. After this they petition the King, but with no ſucceſs; for it was ſuggeſted, that if thoſe men had their Wills, many of the Pariſhes which had already conformed would fall back, and others would never come in. The Church-Wardens ſtood excommunicated a whole year, and afterward were taken, and caſt into the *Common-Goal*, where they lay a long time. Whence at length they were releaſed by the Biſhop, upon their publick Submiſſion and Penance, performed in the Pariſh-Church of *Beckington* and two other Churches.

Septemb. 6. The King declares for preventing the Abuſes of Informers, Clerks and others in their Proſecutions upon the Laws and Statutes of this Realm.

WHereas for the more due execution of the Laws and Statutes of this Realm, and for the better reformation of the abuſes of *Common-Informers*, in their unjuſt Proſecutions and Vexations of our Subjects; the King by His Letters-Patents under the Great Seal, dated the *20th* of *February*, 5 *Car.* 1. did confirm the Office of Receiver and *Collector of Fines* and *Forfeitures* due *upon penal Laws*, formerly erected by King *James*, in the *18th* year of His Reign; and thereunto the King united and annexed the Surveying, Regiſtring, Collection and Receipt of Fines and Forfeitures, for

tranſgreſſing

tranſgreſſing the Common-Law of this Realm, and of all Recognizances thereupon grounded, which ſhould be forfeited in any Courts of Juſtice and Judicature, and of all ſums of Mony due or growing, by reaſon of any Information, Bill, Plaint, Suit, Action, Preſentment, Compoſition, Verdict, Judgement, Execution, or other Proceeding Commenced by the King's Attorney-General, or by any common Informer againſt any Offender for Tranſgreſſing the Laws, ſince the 31*ſt* of Queen *Elizabeth*; except the Collecting of Fines and Forfeitures due, or to be due by any Sentence of our Court of *Star-Chamber*, or of the Court holden by the Lord Preſident and Council in the Marches of *Wales*, and in the *North* part of this Kingdom, or in any Court Leet, *&c.* whereof the Collection was by any Letters Patents granted to any other Perſon before the 15*th* of *October*, in the 18*th* of King *James*. 11 *Caroli.*

And whereas the King hath by *Letters Patents*, Granted the ſaid Office to *James Chambers* Doctor of Phyſick, and *Edward Brown*, Eſquire, for term of their Lives, to be executed by themſelves or their Deputies; but notwithſtanding the ſeveral proviſions made in the ſaid Letters Patents, for preventing Fraud and Abuſes, committed by the ſubtile practiſes of Common Informers, Combining with under-Clerks, they have proſecuted the Kings Subjects, for their private Gain: for preventing of which Abuſes for time to come, the King doth Charge and Command, that the Directions following be obſerved, upon pain of the Kings high diſpleaſure.

Which being very long, ſee at large in the Appendix.

THat in the Reign of King *James*, and ſince the King's acceſs to the Crown, ſeveral Proclamations have been publiſhed for the reſtraint of exceſſive Carriages, to the deſtruction of the High-ways; and yet by daily experience thoſe great Abuſes are ſtill continued and increaſed to the publick Nuiſſance, and likely to hinder the general Commerce of People, and become unrepairable, without exceſſive charge and burden to the Country: The King therefore by the Advice of the Lords, and others of the Privy-Council doth Command, that no common Carriers or other Perſons, do upon the Common High-way, go, or Travel with any Wagon, Cart, *&c.* whereon is, or ſhall be laid at once above two thouſand weight, nor to uſe above five Horſes, or above four Oxen and two Horſes, or above ſix Oxen without Horſes at any one time; and becauſe ſuch extraordinary Carriages, have heretofore, by the opinion of the Judges, been held to be general Nuiſſances, the King doth Command all Judges and Juſtices diligently to inquire after theſe Offences. *November* 1. A Reſtraint of Exceſſive Carriages to the deſtruction of the High-ways.

IN the month of *November*, Mr. *Samuel Ward*, a Miniſter in *Ipſwich*, Preached againſt the common Bowing at the Name of *Jeſus*, and againſt the King's Book of Sports; and further ſaid, that the Church of *England* was ready to ring Changes in Religion, and the Goſpel ſtood on tip-toe, as ready to be gone. For this he was cenſured in the High-Commiſſion, and there ſuſpended, injoyned publick Recantation, which he refuſing was committed to Priſon, where he lay a long time.

The

An. 1635. *November* 10. 1635.

Star-Chamber. Sir *Anth. Pell* Plaintiff. Sir *James Bagg & Alios* Defendants.

The Charge of the Bill is for a groſs deceit and coſenage by Sir *James Bagg* of the Plaintiff, and in that of the abuſe of the Name of the Lord Treaſurer *Weſton.*

THe Caſe was thus; Sir *Anthony Pell* being Surveyor and Keeper of his late Majeſties Hawks *Aug.* 2. *Car.* the King gave direction for the payment of 7000 *l.* unto him, as due from His Majeſty.

Quarto Car. this was unpaid, and to prove this the Plaintiff lent the King 3000 *l.* more, and had an Order of the Council-Table for the payment of 4000 *l.* part of his great debt upon the farm of the Cuſtoms, which was paid accordingly; and the 6000 *l.* reſidue to be paid by levying of Tallies of the firſt monys that ſhould come into the Exchequer, upon the impoſition of *Coales*, benefit of *Soap*, *Recuſancy*, or otherwiſe; failing of all theſe, notwithſtanding his attendance on Sir *Richard Weſton* Lord Treaſurer, 12. *October* 5. *Car.* he did Petition the King, acquainting him with the ſaid Order, and that he had received no Payment or Aſſignment of the 6000 *l.* His Majeſty anſwered, That he found great reaſon in the Plaintiffs requeſt, and commiſerated his hard Eſtate, and referred the conſideration thereof to the Lord Treaſurer, to take the beſt and moſt ſpeedy courſe which might ſtand with His Majeſties other affairs for the Plaintiffs ſatisfaction, with which he acquaints the Lord Treaſurer; That the other Defendant Sir *James Bagg* often reſorting to the Lord Treaſurers Houſe, and there meeting with the Plaintiff, ſubtilly inſinuated himſelf into the Plaintiffs acquaintance, and told him that he had a great and inward relation with the ſaid Lord Treaſurer, and was a great negotiator of buſineſs which paſſed the Lord Treaſurers hand, and offered himſelf an Agent on the Plaintiffs behalf to the Lord Treaſurer for procuring Aſſignments for the 6000 *l.* and did ſcandalouſly pretend to the Plaintiff that there was no hope for him to obtain ſatisfaction for his 6000 *l.* and damage for forbearance thereof, but by giving ſome reward to the Lord Treaſurer; and did affirm to the Plaintiff that he had former experience thereof, and had laid many a thouſand pound upon the ſaid Lord Treaſurers Table, and under his Beds head for buſineſs of like nature; and told Sir *Anthony*, that if he would promiſe him the ſaid Sir *James* 500 *l.* on the ſudden to ſupply the Lord Treaſurers preſent occaſions, he would forthwith procure from the Lord Treaſurer good Aſſignment to be made for the 6000 *l.* and damage for forbearance, and all other monys due from His Majeſty to the Plaintiff for arrear of Wages, which amounted to above 12000 *l.* Whereupon in *December* 8. *Car.* he procured a Friend to lend 500 *l.* for the ſaid Lord Treaſurers uſe, as Sir *James* pretended, and took a bond of Sir *James* and one *Harris* to pay the ſame at ſix months; notwithſtanding this promiſe the Plaintiff attended above a year, and nothing could be done. Then Sir *James Bagg* by confederacy with the other three Defendants, did in *November* 9 *Car.* affirm to the Plaintiff, that if he would give 2000 *l.* more to the Lord Treaſurer for a gratuity (whereby to draw 2000 *l.* from the Plaintiff, and then to ſhare it among themſelves) he would procure the Lord Treaſurer to make Aſſignments before St. *Thomas* day next following for all the Plaintiffs Debts, Arrearages

of

of Wages and Damages; whereupon 4 *Decemb.* 500 *l.* was borrowed at Intereſt of Sir *William Acton*, and 500 *l.* of others, and Sir *James Bagg*, and Sir *Richard Tichburn* were bound for the payment of this 1000 *l.* 21 *Decemb.* 11 *Caroli.*

The 21*ſt* of *December* came; then Sir *James* affirmed to the Plaintiff, that the buſineſs was diſpatched and aſſignments made: but yet the Lord Treaſurer would have the other 1000 *l.* in hand before the Plaintiffs ſhould have the Aſſignments, and *ult. January* he ſhould not fail of them. The Plaintiff upon the engagement of his whole eſtate procured 1000 *l.* more, and alſo upon Sir *James Bagg* and Mr. *Gibbon's* Bond to repay the ſame 30 *January*; which Bond to Sir *James* and *Gibbons* was in truſt to the Plaintiff, that upon ſuch Aſſignments to be made 30 *January*, both his laſt Bond and his other Bond to Sir *Richard Tichburn* ſhould be delivered up to be cancelled: beſides this 2000 *l.* delivered to the hands of Sir *James* for the Lord Treaſurers uſe, as he falſly pretended, he cauſed the Plaintiff to undertake to pay *Owen Brett* and *Charles Eſcourt* 760 *l.* which Sir *James* owed to them, which was to be a reward for his own pains for procuring the Plaintiff his Aſſignments, he ſtill affirming that the 2000 *l.* was paid to the Lord Treaſurer for a gratuity.

The Defendant Sir *James Bagg* in his Anſwer denied the charge of the Bill to be true in any part of it, and thereupon the Plaintiff and Defendant went to Iſſue, and examined Witneſs, and the Cauſe was brought to Hearing, which held the Court ſeveral days; and this day was appointed for the Lords to give their Judgement and Opinion in the Cauſe, the debate and conſideration whereof, and the many Speeches made by the Lords, held the Court ſitting from nine in the morning till four in the afternoon; and then the Court was divided equally in Judgement, there being Nine of the Court for Sir *Anthony Pell*, and nine for Sir *James Bagg*. The diviſion was in manner following. *Nov.* 10. 1635. Sir *James Bagg* his Anſwer.

1. Lord *Cottington*,	*pro Bagg.*	10. Lord of *Carlile*,	*pro Bagg.*
2. Chief-Juſtice *Finch*,	*pro Pell.*	11. Lord of *Dorcett*,	*pro Bagg.*
3. Chief-Juſtice *Bramſton*,	*pro Pell.*	12. Lord *Marſhall*,	*pro Bagg.*
4. Secretary *Windebanck*,	*pro Bagg.*	13. Lord of *Lindſey*,	*pro Pell.*
5. Secretary *Cook*,	*pro Pell.*	14. Duke of *Lenox*,	*pro Bagg.*
6. Sir *Henry Vane*,	*pro Pell.*	15. Lord *Privy-Seal*,	*pro Bagg.*
7. Biſhop of *London*,	*pro Bagg.*	16. Arch-Biſhop of *York*,	*pro Bagg.*
8. Lord *Barret*,	*pro Pell.*	17. Arch-B. of *Canterbury*,	*pro Pell.*
9. Lord of *Holland*,	*pro Pell.*	18. Lord *Keeper*,	*pro Pell.*

It was at this time diſcourſed by the Auditors then preſent in the Court, that the Speeches then made, were rather *pro Amico*, than *pro Quer' aut Deff.*

AT the hearing of this Cauſe the Queen was preſent in a Room that had a Window looked into the Court, ſhe came in favour of Sir *James Bagg*, as was Conceived.

Memorandum, That Mr. *Arthur* the Regiſter, before he had drawn up the Decretal-Sentence received a Warrant under the Kings hand to forbear Entring the Cenſure of the Court in this

An. 1635. Cauſe, as regularly His Majeſty might do by the Rules of this Court, for Informations in the *Star-Chamber* are directed to the Kings Majeſty himſelf; and accordingly the Decretal Order was ſtopt from being Entred: But how the Matter was compoſed afterwards we know not.

It is to be obſerved as another Rule in that Court, that if the Court be equal in Voices, the Lord Keeper hath the Caſting-voice, in like manner as the Speaker hath in the Houſe of Commons, who being in his Judgment for Sir *Anthony Pell*, the ſame was to have been Decreed, and entred accordingly for *Pell*.

It would be too tedious to the Reader to have all the Harangues and Speeches made this day ſet down at large, and the Repetitions upon Repetitions, by ſome Lords, of what others did ſpeak, would take up time to repeat; we omit them therefore at large, only to ſatisfie the Readers curioſity we inſert theſe two.

Lord Chief Juſtice Finch *his Cenſure.*

Sir *Anthony Pell* Plt'. { Sir *James Bagg*, Sir *Richard Tichborne*, *William Lake*, and *Gibbons*, } Defendants.

My Lords,

THe Charge of the Bill is for a groſs deceit and coſenage by Sir *James Bagg* of the Plaintiff, and in that the abuſe of the Name of an Honourable and Great Lord. Take theſe two Charges aſunder, or ſeverally, there is not one of them but of great weight and conſequence: and put them both together, and it is of as great a weight as any Cauſe in this Court. Take them ſeverally, I will not ſay that every coſenage or deceit is fit for this Court: But if a fraud or coſenage be accompanied with a publick inconvenience, or reflecting upon the Juſtice of the King, it hath ever been held fit for this Court to take notice of it.

My Lords,

In matter of Bargain and Contract between Man and Man, if he will make his fraudulent Conveyance, he hath his remedy at Law and in Equity, and yet of late many Preſidents your Lordſhips have made, becauſe it tendeth to the publick damage of the Common-Wealth; and in many other Caſes I hold this Bill, as it is laid, to be of danger and conſequence, not only in regard of the Publick, but of the reflection upon the King. For the Publick, there is nothing more dangerous, or of leſs comfort to the Common-Wealth, than when there ſhall be Panders and Brokers about Judges, for the adminiſtration of Juſtice.

My

My Lords,

For my part, let him be a Miniſter of Juſtice, or of the Kings Revenues, that ſhall have any Servant or Familiar, who will take upon them, in the name of their Maſter, under ſhew of carrying on their Buſineſs, to take a Reward, but for the procuring of juſt and due Debts: My Lords, I ſhall ever hold it to be of that danger and conſequence, that I had rather ſee both puniſhed, than one to eſcape.

My Lords,

And for that part which concerneth my Lord Treaſurer, it is true, I will not ſay if that had been the ſole Charge of the Bill, I would have held Sir *Anthony Pell* a fit Party to complain in this, or to be the Judge of this, or to manage it: But I ſhall leave that to be followed in ſuch courſe as the Kings Attorney ſhall direct.

And where in this Caſe, or any other Caſe it ſhall be accompanied with any deceit to the Party, that will enable any private Man to be a fit Complainant in this Court; therefore for the ſcandal, which I hold of a great and eminent nature, if it had been the ſingle Charge of the Bill, I ſhould have given my voice to have thrown it out; but as the Charge of this Bill is laid, it is a groſs coſenage of the Plaintiff. This is drawn in by an aſperſion upon the great Lord; and in this caſe I cannot but hold Sir *Anthony Pell* to be a fit perſon to complain in this Court, and to mingle that with the ſcandal upon my Lord: It was therefore wiſely done of the Defendants to wage their demurrer. My Lords, in this Caſe I do find the Parties intereſſed are the Plaintiff and Four Defendants; but it is true, there is another intereſſed in this Cauſe, and that is the Honour of a great Lord, who as he did bear an Office of great Truſt, ſo he had great Truſt repoſed in him. And I do not blame my Lord of *Portland*, that he is eager in vindicating the Honour of his Father, which hath deſcended unto him, and to diſcover that this Bill was put in as a Cloud to hang over his Father. I ſhall, as my Lord that laſt ſpoke, leave him freely to take his courſe, be it againſt whom he will.

In truth, my Lords, I do remember what that great Lord did here in Court earneſtly move your Lordſhips, that this Cauſe might receive all the expedition that could be, that this Cloud might not hang over him, that when it came to a hearing, to repair him by ſome exemplary Sentence. This I know your Lordſhips do remember, and will be as ready to do for him, as if himſelf was living.

For, my Lords, in this Cauſe I muſt deal clearly, that I hold it little better than a *non liquet*, either to be puniſhed by ſome exemplary Sentence upon the Plaintiff, or Defendants, or ſome of them, let it light where it will: For, my Lords Honour all this while having been a Defendant in the Hearing of the Cauſe, is now juſtly, upon the Hearing, become Plaintiff. The Bill layeth it plainly to be a ſcandalous aſperſion caſt upon my Lord Treaſurer by Sir *James Bagg*, but no part of the Bill doth trench upon my Lord Treaſurer; ſo that the Honour of that great Lord, in ſtead of a Defendant, is now worthily before your Lordſhips a Plaintiff, and requireth as

An. 1635. much vindication, which muſt be by ſentencing the Plaintiff or Defendants, for a foul and ſcandalous Libel.

My Lords,

In this Cauſe I muſt ſay ſomething for a general delivery of my ſelf to your Lordſhips, before I deſcend to the Particular parts of my Sentence.

Under favour, I hold it a great error, that any ſhould think, that in every Cauſe in this Court, a Man muſt for every Particular, or Phraſe that doth countenance to prove the Bill, have two Witneſſes. If one be charged with oppreſſion, you do never condemn without two Witneſſes.

I conceive witneſs in the ſame, though but *ſingularis Teſtis* ſhall ſerve.

For to ſay, that Sir *James Bagg* did utter theſe and theſe words, every Phraſe in this is not to be expected to be proved by two Witneſſes, by the courſe of the Court. In any Caſe it is an error to think, that two Witneſſes are of neceſſity, for one Witneſs and Circumſtances, (as others do aver) amount to a further Witneſs, to draw on your Lordſhips to your Sentence: But I do hold in this Caſe, there will fall upon ſome of the Defendants a full Proof upon two Witneſſes.

For the Defendant, Sir *Richard Tichburne*, near in Blood to the late Lord Treaſurer, I do hold him a Man of worth, and I am glad I do find him ſo. And for my part, if the courſe of the Court will allow him remedy here, I ſhall willingly condeſcend; but however, I ſhall deſire that there may be mention made of his clearneſs.

For Mr. *Gibbins*, I find him clear in this Caſe, and ſo I leave him.

For Mr. *Lake*, I find ſome touches of him, but not ſuch as ſhall any ways move me to a Sentence. Mr. *Lake* did direct the making of the Petition; I clear him.

My Lords,

For Mr. *James Bagg*, I ſhould be as glad to acquit him as any of the reſt, but I muſt deal clearly. I cannot, I will not ſay, that Sir *James Bagg* is guilty of every Particular in the Bill. I do wonder to find ſo much in a Caſe of this nature; I do not think it neceſſary, that every Particular in the Bill be proved; Circumſtances may perhaps be added by Councel, put in to draw out interrogation of the Party to make the Truth appear: And yet I muſt needs ſay, that of ſome words in the Bill there is no proof made. As that Sir *James Bagg* ſhould ſay, *He had laid many a Thouſand Pounds under my Lord Treaſurers Pillow for Buſineſs in that kind*; for which I ſhould ſentence him.

My Lords, In this Caſe that doth concern *Bagg*, it is very hard to divide the oppreſſion ſeverally from the ſcandal on my Lord Treaſurer. I cannot make any thing of the Cauſe and take it all aſunder.

The firſt thing I begin withal, is the Particulars of the Money. 2. the 500 *l.* borrowed of Sir *William Acton Dec.* 4. 1633. I find it is proved the Plaintiff did not intend to borrow it for himſelf, but for

for Sir *James Bagg*; I find that Sir *James* ſaid, the helping him to his Money would be a means to help him to the Aſſignments. Sir *James Bagg* ſaid it would do the Plaintiff a curteſie. If Sir *James* had done no more, but drawn a Man to lend him Money for ſuch a diſpatch, I would have held it a Crime fit for the Sentence. *Hem, hem, hem, hem, Leave that faſhion,* (meaning of *heming*) I only ſpeak of this to this purpoſe, to ſhew how this Money was borrowed, and that the application of borrowing it, was in relation to the Aſſignments. The Money was borrowed 4. *Dec.* to be paid the 21*ſt* of *December*; ſo it was but a borrow for ſeventeen days. And if it were Sir *James Baggs* own Money, why did he tell him, *Pell* ſhould be his Pay-maſter. When 21. *December* came, *Bagg* did deſire continuance of the Money till the latter end of *January*, and in that time he would effect his buſineſs. 11 *Caroli.*

Next Sum was the 500 *l.* borrowed of Mr. *Herne*, of which the Plaintiff was never poſſeſſed; it was delivered to Sir *James Bagg's* Man, and this was payable long after the time of the Aſſignments: Their Sum is 300 *l.* in *Dec.* 21. upon a Letter 17. of *Dec.* Sir *Anthony Pell, I pray you ſend me* 500 l. *to my Lodging.* It ſeems he had the Plaintiff in a String. *It is objected by Sir* James Bagg, *the Plaintiff was ſo careful of good Security, that he would not part with the Money, unleſs Mr.* Eſcourt *would be bound, that Mr.* Gibbins *ſhould Seal. If never ſo good Security, if they were in his hands, how might he have handled Sir* Anthony.

When Sir *James* was that night at the *Kings-Head*, and ſaw the Money did not come; ſaith one Witneſs, Sir *James*, ſaid he (meaning the Lord Treaſurer) *could not ſleep*; he ſaid alſo at that time, *If it were not delivered, the Plaintiffs Buſineſs would be daſhed, and fall more backward than ever it was, the Plaintiff would be undone it ſtaid ſo long.*

Your Lordſhips finding this Depoſition not to agree, appointed *Marſh* to be heard, as it was in the Caſe between *Vaughan* and *Vaughan*, and ſent for the Witneſs hither, who did explain the Depoſition, and your Lordſhips gave credit to that Explanation; ſo for *Marſh*, for my part I muſt deal clearly, I ſhall take his Explanation according to the Rules of this Court, to be cleaf and expreſs, that he ſaid, *My Lord Treaſurer could not ſleep that night*: yet not to forget Mr. *Examiner* by the way, I find that he hath committed as great an abuſe, as could be put on the Court. I find many Depoſitions very obſcurely ſet down; for Sir *William Actons* Depoſition, and his variation afterwards, adds little credit to his Perſon. I find cunning enough in the *Examiner*, to excuſe the entertaining of Sir *James Bagg* at a Tavern. I do not forget his threatning of *Marſh* about his Explanation, *That my Lord Treaſurer could not ſleep.* I cannot in my Conſcience be ſatisfied of his carriage in this Cauſe, I ſhall never hold him a perſon fit to bring things to a clear Judgment before your Lordſhips.

When this 100 *l.* came at laſt, and he had put it up: *Come let us make haſt to* Wallingford-houſe, *for I muſt pay it away preſently, and if it had not come, the Plaintiffs buſineſs had been loſt.* So I ſee ſtill, if he might not have the Money when he would, and how he pleaſed, your Buſineſs would be undone.

For

An. 1635.

For the 500 *l.* of *Harries*, what was between *Bagg* and *Harries*, I know not; it may be poſſible, that *Pell* might help *Bagg* to this for *Harries's* good and his own; but this was lent at the Plaintiffs inſtance, and ſaid he would not have lent it, but to be a means to help the Plaintiff to his Aſſignments.

This was but a Maſk that Sir *James* put upon the buſineſs, to draw him up and down with a hook in his Noſe which way he would.

For the 700 *l.* owing to *Owen Brett*, it was very true that *Pell* was not ingaged for this; for I remember the reaſon why he put him off, for perhaps he might come ſhort of it.

Thus for the Particulars I have run through. There are two other things untouched; I am very tender to enter into theſe things that concern the Revenue of the Kingdom; but coming neceſſarily before your Lordſhips in Judgment, I cannot but take notice of the 7000 *l.* that it ſhould be cut off by the agreement of Sir *Anthony Pell*, I find that is ſo by His Majeſties Letter *omni exceptione*; and that my Lord Treaſurer did teſtifie that it was ſo: Therefore, my Lords, to enter into the conſideration or diſcuſſion of that, I will not; but this, my Lords, I will ſay, that in the Books I find no proof it was Sir *Anthony Pells* agreement: If I did, I hope it not material.

It is apparent by Sir *Robert Pyes* Certificate, that 13000 *l.* was due to him; and I preſume that Man is of ſo great worth, that I think he looked narrowly unto it, before he would make any Certificate; but to ſay the Debt was full ſo much, I dare not, but leave it to thoſe to whom it doth belong under the King to do it.

It is true, I find it teſtified likewiſe, that 3000 *l.* was to be advanced for the Kings Service: Whether Sir *James Bagg* informed my Lord thus, or he ſpoke with *Pell*, I know not; but for *Bagg's* advancing of 2000 *l.* truly my Lord I muſt deal clearly, whether he did or not it is not material; but I find if he did, it could not be in reſpect of *Pells* breaking with my Lord Treaſurer, and failing to perform for this Bill under my Lord Treaſurers Hand of the Receipt of *Bagg's* 2000 *l.* was 9. *July*. And Mr. *Lake* writ a Letter to Mr. *Bond* 15. *July*, to keep Sir *Anthony Pell* to 3000 *l.* and then the Aſſignments were not Cancelled. But would Sir *James Bagg* ſuffer poor Sir *Anthony Pell* to be undone for the want of a Thouſand Pounds? for *Bagg* had 2000 *l.* in his Hands of his, and for 1000 *l.* more he might have been able to have advanced 3000 *l.* to get the Aſſignments. Suppoſe *Pell* was but his Broker, to take up Money for him, would *Bagg* ſuffer the Plaintiffs Buſineſs to periſh, or his Aſſignments to go back in ſuch a ſtrait? I muſt needs in my own Conſcience ſay, it was one of the hardeſt paſſages in the Cauſe, and I do wonder that Sir *James Bagg*, who hath been ſo careful to prove every thing that he is wanting as to the Privy-Seal; my Lords, it is objected that there is no proof of a Reward, I ſhould hold *Bagg* a Fool if Sir *Anthony Pell* ſhould prove a Contract. And for the delay, I ſhall not trouble your Lordſhips, you have ſeen his many Letters; but I wonder Sir *James Bagg* would be ſo zealous to neglect the Kings Service of ſpecial Truſt, and attend here ſeven Months to effect and diſpatch this buſineſs for the Plaintiff, and all this

this for nothing. And when he had been ſeven Months, and brought the buſineſs to an effect for the changing the 2000 *l.* he had but in the name (meaning to ſay it was *Pells* 2000 *l.* and not his) to make this poor Gentleman loſe all. I cannot in my Conſcience let this paſs, the very Act of the managing of the buſineſs doth much reflect upon the Juſtice of the King, who gave a moſt Gracious Anſwer to Sir *Anthony*'s Petition, in ſaying *He commiſerated his Caſe*, and gave ſpecial direction for the ſpeedy payment of his Monies. And yet by *Baggs* deceit and coſenage, I pray God no Man have occaſion to ſay that it is an Epidemick Diſeaſe: It hath been ſaid, (meaning my Lord *Cottington*) ſuppoſe he had the Money, is it a crime if a Man undertake to effect a Buſineſs for another, will not the Court of Juſtice allow him for his pains? For my part, I will be none of thoſe Judges to give my opinion ſo; and I think if he come into *Chancery*, he will have but ſmall comfort.

Now my Lords I will come to the Point of Scandal.

The firſt Proof for this, that this was with a Judgment, (ſaith *Baxter*) *He muſt give a Reward to my Lord Treaſurer, for he had experience of it.* This cometh not very ſhort of the Scandal, *of laying many a Thouſand under my Lords Pillow.* The ſubſtance of the Proof cometh cloſe to it; and though *Baxter* be *Singularis Teſtis*, yet I ſhall joyn him with others. I ſhall in the next place obſerve all the cunning expreſſions of the Defendants: *He could not ſleep that night, he muſt to* Wallingford-houſe, *the Buſineſs will be undone, and go more backard than ever.* He that hath Wit, and knoweth how to carry himſelf, to put ſuch odious reflections upon my Lord Treaſurer, deſerves to be ſeverely puniſhed. I am ſatisfied in my Conſcience he did this cunningly, to make the Plaintiff believe my Lord Treaſurer was to have it: Then (my Lords) laying all theſe together, and that of *Owen Brett*, it is apparent from him and the other Witneſſes. I find none of them diſcredited, though it is a dangerous Caſe; and I do not know how any Cauſe of the King may periſh if ſuch a gap be opened, as never to take exception to a Witneſs, but juſt at the hearing to blow upon them, (meaning by Sir *James's* Councel) and to ſay *they were Serving-men or Foot-men*; who but Servants can beſt tell of any Paſſages between their Maſter and others? I do take them to be upright and good Witneſſes; he that ſweareth Sir *James* took that Execration upon him (meaning God damn me) *that he was never a Peny better for his Money, my Lord Treaſurer had it all.* Add this to *Marſh*, *that my Lord Treaſurer could not ſleep till he had the Money*: And that of *Owen Brett*, it will add a little Grain to the Ballance, whom I do find no ways diſparaged. I do find it confirmed by *Turner*, that *Bagg* and *Lake* told *Jones*, (as *Jones* ſaid) that My Lord Treaſurer had the Money, and ſo *Jones* ſpared not to tell them his mind; and this ſpoken from a Man that was in a Conſumption, to another, I do crave pardon if I do not altogether decline this.

I do hold Sir *Anthony Pell* in this Cauſe ſo far from having an Impoſition of Fine *pro falſo clamore* or *non liquet*, as that I conceive he hath juſt cauſe for this Bill, and to hold Sir *James Bagg* guilty in this

An. 1635. this Cauſe foully. I do adjudge him to pay 5000 *l.* to the King, and Impriſonment during the Kings Pleaſure, and that in the *Tower* and for the Offices which he doth hold, Two of great Truſt and Weight about the King, truly, my Lords, I know the King doth underſtand the worth and value of his Servants, as well as ever any King in Chriſtendome did; I will not take upon me the boldneſs to diſplace a Servant of the Kings, or take him from his Service, but in all humility ſhall offer my advice to His Majeſty, that I do not hold Sir *James* a fit Man to be truſted in a Place of that Importance, or to meddle with any Actions of the King, in which how he hath carried himſelf I know not; I ſhall leave your Lordſhips to conſider of the condition of the Treaſury.

I can do no leſs than adjudge *Bagg* to repay the 2000 *l.* which is not yet paid, and for which the Plaintiff is ingaged. I do find 500 *l* paid to *Acton*, and ſince the Bill came in or about that time; and I do adjudge him to pay to the Plaintiff for Damages Fifteen Hundred Pounds.

Some Notes of my Lord of Canterburies *Cenſure.*

My Lords,

THis is a Cauſe of great danger, I ſhall be as ſhort as I can, (before I ſpeak of the Defendant) I ſhall ſpeak of the great Miniſter of State. If the Court think fit to leave it to my Lord of *Portland* to vindicate his Fathers Honour, I ſhall do ſo too. I do remember what both my Lord Chief-Juſtices have ſaid, whether this Charge can be ſevered from the Scandal or not? whether a neceſſity to name the Lord Treaſurer or not? I do conceive it to be unavoidable. If a neceſſity in uſing his name, then what fault in Sir *Anthony Pell?* If no neceſſity, I muſt condemn *Bagg* for being in a far greater fault, that by his open mouth ſo much vilified the Honour of the Name of my Lord Treaſurer. I deſcend to the delivery of my Judgment clearly, and am of opinion that my Lord Treaſurers Honour ſtandeth right in this Court, there being nothing by way of Proof or aſperſion that can faſten upon him. If any thing, it muſt ariſe from the Plaintiff, or from the Defendants. And I ſhall be as ready as any Man to protect the Honour of that great Lord, be it againſt *Pell* or *Bagg*, or whom-elſe ſoever. But (*My Lords*) if it be a fault in Sir *Anthony Pell* for the ſpreading of this, the fault muſt light upon Sir *James Bagg*, for he gave the occaſion of all theſe Reports.

My Lords,

Having, as far as lyeth in me, done the Duty I owe to the Dead, whom I hold to be clear in all, I ſhall fall upon the Particulars. Firſt, for the Examiner, I never knew ſo many groſs abuſes in any Cauſe by an Examiner, as in this. If this Courſe be held, any Cauſe of the Kings may be overthrown. Since I had the honour to ſit in this Court, never ſuch groſs abuſes were committed by an Examiner. That Order may be taken with this baſe Examiner, I hold

hold him to be the moſt unworthy fellow, and a Cut-throat of any Mans Cauſe.

For Sir *Richard Tichburne*, I hold him innocent from any aſperſion; but I can give no reparation. What if Five or Six Defendants, and only Proof be brought againſt them, One or Two, ſhall this fall foul upon the Plaintiff for want of Proof?

For the Plaintiffs Debt, I ſhall not ſay any thing, nor think it a Crime, that *Pell* was delayed in the payment of his Money; for the King hath a great many very great publick and important occaſions, that he cannot pay all upon demand: And withall conſidering that the original Debt was but 7000 *l.* and it ſuddenly grew to above 13000 *l.* therefore the Lord Treaſurer had need to look about him. God forbid, that upon main occaſions, when the King promiſeth a Suit (perhaps directly) of ſo much Money, and is not preſently paid, that the King muſt pay Intereſt for this; this is no fair uſage of the King.

The thing that troubleth me is this, of the Attendants on the Lord Treaſurer. If the Lord Treaſurer have a near Kinſman, or Secretary, or any other imployed for him, if thoſe Men ſhall be corrupt, or do thoſe Acts which ſhall make the World believe it is ſo, it ſhall be as much as if they were really guilty. For by this means the People will run on with an opinion of Bribery and Corruption: They cannot have it out of this great Mans Hand, but they muſt go that way of Bribery to the Secretary for it. It ſhall not only bring great Men into deſpite, who perhaps never heard of it; but Men when they cannot have their Money without going this way, care not what they do.

Becauſe he nameth the great Officer in the Bill, is it a ſcandal? muſt this be a Terror to any Man for doing the Kings Service? Oh, but there is medling with the Kings Revenue! What hath Sir *Anthony Pell* to do with it? If there be but a poſſibility of fraud, ſhall the King have no Court of Juſtice to do him right? If it come to this paſs, that no abuſe concerning the Revenue muſt be queſtioned, the King ſhall never know what the Eſcheat is.

Here are four Defendants.

For Sir *Richard Tichburne*, the Lord Treaſurer had no diſhonour by him; a Gentleman of an ancient Family, and very worthy as any Man: therefore I ſhall concur, that the Sentence may be drawn up with a fair mention of his manifeſt Innocency throughout the Cauſe.

For the Second Defendant, Mr. *Gibbins*, I do clear him.

For the Third Defendant, his Secretary Mr. *Lake*, I am very ſorry to meet him here upon this occaſion, not that I ſhall Cenſure him, but yet ſomewhat ſticketh with me, and that is his Letter to Mr. *Bond*, that upon his Faith and Credit he had Aſſignments of 6000 *l.* in keeping for the Plaintiff. Should he be ſo adventurous as to write ſo without his Lords privity? It troubleth me the more, partly for the Proof of it, becauſe there are Six days between Sir *James Baggs* Advancement of 2000 *l.* and Mr. *Lakes* Letter to *Bond* to help Sir

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Anthony to 3000 *l.* therefore a fraud is contrived in ſome kind: Yet I ſhall acquit Mr. *Lake*, though I cannot think ſo well of him as I have done.

My Lords,

Now as for Sir *James Bagg*, I do not ſtand upon it, whether Sir *Anthony Pell* is damnified in this Buſineſs, yea or no? the Queſtion is, what fraudulent Practiſes here are by Sir *James Bagg*? And if there be but an Intention to do the ſame, I hold him as guilty as if he had done it. Joyn this together with his uſing of my Lord Treaſurers Name to lend theſe Monies, that ſo he might be inticed by that meerly to get the Aſſignments; I do hold this Practiſe to be criminal in this Court.

The Proof is, That he had Experience in Buſineſſes of this nature; he was to have but Seven Hundred Pounds for his pains. He muſt to *Wallingford-houſe*: though in anſwer to this it was wittily obſerved by Sir *James Bagg's* Councel, this Conſtruction, (*ſenſu diviſo, ſenſu compoſito*) that he muſt pay the Money, and then preſently to *Wallingford-houſe* and pay the Money there.

If Two Witneſſes not concurring in Time and Place, yet if they concur in proving the Crime, they are of force to me, they all come home to this Plot and Practice. I ſhould be of opinion with my Lord of *London* if theſe things were ſeveral.

But conſider the Shooe-horne they draw on by the Name of the Lord Treaſurer, and the Plot will appear.

I find this Money pretended to be for my Lord Treaſurer, though it was never paid back again, nor ever tendred; and yet what a glorious defence at Bar was offered, that *Bagg* would not pay it till the Bill came in. For why? becauſe that the World ſhould not take notice, that he was afraid of the Bill. This is but a gloſs and weakning of himſelf. All the World may ſee, if it had not been for the Bill, Sir *Anthony Pell* ſhould never have had his Money. It is even as if one fall upon another in the High-way, and they rob him, and make him enter into Bond, that he will not queſtion him hereafter; and then others come and ſee them, then he that robbed him anſwers, Here is your Money, I did but borrow it. I conceive the getting of the Money by *Bagg* from *Pell* as bad, as if he had gone away with the Two Thouſand and Five Hundred Pounds.

I agree in one thing with my Lord *Finch*, That *Bagg* was a moſt unnatural Man, that had drawn *Two Thouſand Five Hundred Pounds* for the uſe of himſelf and his friends, from the Plaintiff: And whereas Sir *Anthony* was in a ſtrait how to advance *Three Thouſand Pounds*, that he ſhould be ſo hard-hearted, (that Two Thouſand Five Hundred Pounds being in his Hands) as not to help him at ſuch a time, I would have Sentenced him for this unnatural part alone: Poor Sir *Anthony* muſt ſuffer all this, while it is likely *Bagg* would never have been gull'd in a Buſineſs. He was an Ingenious Man, Sir *Anthony* was a ſingle plain Man.

If *Bagg* had put this Bill in, I ſhould have conceived the worſt of it; but I ſhall never believe poor Sir *Anthony* had in him that malice, as if *Bagg* had put it in: For his Councel to take Exceptions againſt Witneſſes at the Hearing, is of dangerous conſequence; any Cauſe of the Kings may be ſo ſpoiled. They ſay one of Sir

Anthonies

Anthonies witneſſes was but ſeventeen years of age; if it were ſo, yet he was of age enough to tell and receive mony. They except againſt them becauſe they are Sir *Anthonies* Servants. Who are ſo proper to be Witneſſes as his men? Why is here no exceptions taken to Sir *James Baggs* Witneſſes? for he had two Servants ſworn as well as Sir *Anthony*.

For Mr. *Eſcourt*, they ſay he was then preſent, and heard no ſuch words as *Marſh* ſweareth; that might be true, and he not hear, for they might be ſpoke and not in his hearing. What if *Pell* did fail in the proof of his Bill, not only in the matter but in the manner?

I will not look upon *Pell*, but upon the Publick: but I hold this proved both in matter and manner; for it would not have been ſufficient for *Pell* to have proved, he was coſened thus much, but in this *manner*. That which is worſt of all, and is ſo foul, that his Councel offered no defence at all, and that was *Baggs* own anſwer; where he ſweareth, that he never did deſerve any ſuch kindneſs of Sir *Anthony Pell* for to do ſo great Curteſie, as to lend him theſe monys. Look but upon, and ſee the many Letters he writ; *James Bagg, your moſt real Friend, your buſineſs will be better done if you leave it to your Friend* James Bagg. Here is his Hand againſt his Oath, and his Oath againſt his Hand. He was a moſt baſe fellow to ſay, *your moſt real Friend*, and to ſerve Sir *Anthony* as he did. I have now done with that bottomleſs *Bagg*, and my cenſure; I leave my Lord of *Portland* to do what he thinketh fit againſt him. I hold it as dangerous a practice of him as ever was in this kind. I fine him at 5000 *l.* and Impriſonment during the Kings pleaſure; and for his Office leave it to the Kings pleaſure: only pray, that a man whoſe Hand and Oath cannot be taken may not be in truſt, eſpecially in places concerning His Majeſty. The Plaintiff hath a loſs perſonal and real, and ingaged himſelf in many thouſand pounds for the obtaining of mony, therefore I fine *Bagg* 500 *l.* damages to Sir *Anthony Pell*.

The Lord *Cottington*, who firſt began according to the courſe of the Court, was of opinion Sir *James Bagg* ought to be acquitted, and Sir *Anthony Pell* to be cenſured *pro falſo Clamore*, for caſting an aſperſion upon my Lord Treaſurer, by putting thoſe paſſages of ſcandal into his Bill.

And the Earl of *Dorſet* declared he did not think it to be a crime for a Courtier that comes up to Court for His Majeſties ſervice, and lives at great expence in his attendance, to receive a reward to get a buſineſs done by a great man in Power, and was of opinion with my Lord *Cottington*, to fine the Plaintiff *pro falſo Clamore*.

An. 1635.

The Bishop of *Canterburies* Letter to the Arch-Bishop of St. *Andrews* in *Scotland*.

My very good Lord,

FOr the Particulars entrusted by the Church to the Lord Bishop of Brechen, and namely about the Abbacie of Lindores, you must expect them from the Lord Bishop himself, and from such relations as you will receive by my Lord and the Earl of Traquair. Now at this time you shall receive nothing, but that which is commanded me by the King, and must be my part to act in the present and future business for the Church of Scotland.

My Lord, For the present the King is resolved, upon some great reasons of State, which have prevailed with him, not to meddle with the Abbacy of Lindores, or any other of that nature, as yet, but to leave them in that state in which they now are, till such time as he may consider the Decrees, and the Act or Acts of Parliament which concern them; and till he can find a way to order them better, both for his own profit, and the contentment of His people there: assuring you in the mean time, that both in this and all other business, he will be very careful both of the credit, and of the maintenance of the Church; whereof if your self or any other Bishop or Clergy-man, shall make doubt, I am commanded to tell you, that therein you will not only do His Majesty wrong, but hurt your selves and the Church, which you seek to benefit. And in this very particular, you are to know, and make known to others, that it is not the dislike of any person or persons, or of the thing it self, that causes this present stay, but reason of state only, and the care which the King hath that all proceedings may go on according to Law. As for the Bishopricks His Majesty will take their wants into as Provident care as he can, and hath setled Arbroth upon the Bishoprick of Brechen, but in what form I am not able to tell you, as not being so well acquainted with the Customs and Constitutions of that Kingdom, and therefore lest I should mistake in any circumstance, I leave that wholly to the Bishops own Relation.

For all the business of that Church in future, which must come to the Exchequer or any other publick Audience, or any other business that may reflect upon the Church, or any thing that belongs to the Kings service, in which Church-men are trusted, you are immutably to hold this Rule, and that by his Majesties strict and most special Command, namely that your self, or the Lord Ros, or both of you together, do privately acquaint the Earl of Traquair with it, before it be proposed in publick, either at the Council-Table, or the Exchequer, or elsewhere: and the Earl hath assured the King in my presence that he will strictly observe and hold the same correspondency and course with you; and further, that he will readily and faithfully do all good Offices for the Church, that come within his power, according to all such Commands as he shall receive, either immediately from the King, or otherwise by direction of his Majesty from my self. And if at any time your Lordships, and my Lord Traquair shall upon any of the forementioned business so differ in Judgement, that you cannot accord it among your selves, let it rest, and write up either to His Majesty, or to my self, to move His Majesty

11 *Caroli.*

ſty for further direction, which once received you are all to obey, that ſo this little unhappy difference, which lately aroſe about Lindores, *may be laid aſleep; and that no other may hereafter riſe up in the place of it, to diſturb either the Kings or the Churches ſervice, or diſorder any of your ſelves, who are known to be ſuch careful and direct Servants to both. And to the end this may go on with better ſucceſs, His Majeſty preciſely commands, that this mutual Relation between the Earl of* Traquair *and you, be kept very ſecret, and made known to no other Perſon, either Clergy or Laity, for the divulging of theſe things cannot but breed Jealouſies amongſt men, and diſſervices in regard of the things themſelves; and therefore the King bids me tell you, that he ſhall take it very ill at his hand, whoever he be, that ſhall not ſtraightly obſerve theſe his directions. This is all which I had in command to deliver to you, and I ſhall not mingle with it any particulars of my own; therefore wiſhing you all Health and Happineſs, and good ſpeed in your great affairs, I leave you to Gods Bleſſed Protection, and reſt,*

Your Graces very Loving Friend
Novemb. 10. 1635. and Brother,

W. Canterbury.

December 1. The Arch-Biſhop of *Canterburies* Letter to the Lord Arch-Biſhop of St. *Andrews.*

My very good Lord, S. *in Chriſto.*

I Have but one thing at this preſent to trouble you with, but that hath much diſpleaſed the King, and not without very juſt cauſe; for now while the King is ſetling that Church againſt all things that were defective in it, and againſt the continuance of all unwarrantable cuſtoms unknown to, or oppoſed by the ancient Church of Chriſt, the now Biſhop of Aberdeen, *hath given way to, and allowed a* publick Faſt *throughout his Dioceſs, to be kept upon the Lords-Day, contrary to the Rules of Chriſtianity, and all the ancient Canons of the Church. I was in good hope that Church had quite laid down that Ill-Cuſtom: but ſince it appears the now Biſhop of* Aberdeen *hath continued it, and perhaps others may follow his example, if this paſs without a check; therefore His Majeſties Expreſs Will and Command to your Grace is, That you and my Lord* Glaſcow, *take order with all the Biſhops in your ſeveral Provinces reſpectively, that no man preſume to Command, or Suffer any Faſt to be upon that day, or indeed any publick* Faſt *upon any other day without the Special Leave and Command of the King, to whoſe Power it belongs, and not to them. And farther His Majeſties Will and pleaſure is, that if the Canons be not already Printed (as I preſume they are not) that you make a Canon purpoſely againſt this unworthy Cuſtom, and ſee it Printed with the reſt; and that you write a ſhort Letter to the Biſhop of* Aberdeen, *to let him underſtand how he hath over-ſhot himſelf, which Letter you may ſend together with theſe of mine, if you ſo pleaſe. This is all which for the preſent I have to trouble you with; therefore leaving you to God's Bleſſed protection, I reſt.*

Your Graces very Loving
Friend and Brother,

Will. Canterbury.

Mr. *Chancey*

An. 1635.

Mr. *Chancey* queſtioned in the High-Commiſſion.

MR. *Chancey* Miniſter of *Ware* in *Hertfordſhire* for oppoſing the making of a Rail about the Communion-Table in that Pariſh-Church, as an Innovation and Snare to mens Conſciences, was brought into the High-Commiſſion, and there pronounced guilty of contempt of Eccleſiaſtical Government, and raiſing a Schiſm; and was ſuſpended from his Miniſtry, till he ſhould make in open Court a Recantation after a preſcribed form, acknowledging his great offence in uſing the invective Words, and proteſting that he was perſwaded in his Conſcience, that kneeling at the Sacrament was a Lawful and Commendable Geſture, that the Rail ſet up in the Chancel with a Bench thereunto annexed, for kneeling at the Holy Communion, was a decent and convenient Ornament, and promiſing never by Word nor Deed to oppoſe either that, or any other Laudable Right and Ceremony preſcribed in the Church of *England*.

He is condemned in great coſts of Suit, and was impriſoned till he paid the ſame, or performed the order of the Court.

Afterwards Mr. *Chancey* having made the enjoyned Recantation, was diſmiſſed with a judicial admonition given by the Arch-Biſhop to live Peaceably and Conformably to the Doctrine, Diſcipline and Ceremonies of the Church of *England*, and neither by Word nor Deed to oppoſe, or to bring into a diſeſteem any of them.

January 19. Againſt Hackney-Coaches in and about *London*, giving diſturbance in the Streets.

THE Kings Majeſty took into conſideration, the reſtraint of the multitude and promiſcuous uſe of Coaches about *London* and *Weſtminſter*. His Majeſty perceiving that of late the great numbers of Hackney-*Coaches* were grown a great diſturbance to the King, Queen and Nobility through the Streets of the ſaid Citys, ſo as the common paſſage thereby was hindred, and made dangerous, and the Rates and Prices of Hay and Provender, and other Proviſions of the Stable thereby made exceeding dear, hath thought fit, with the advice of His Privy-Council, to publiſh His Royal Pleaſure for Reformation therein; and therefore doth Command and Forbid, that from the Feaſt of St. *John* the Baptiſt next coming, no Hackney, or hired Coach, or Coaches be uſed or ſuffered in *London*, or *Weſtminſter*, or the Suburbs or Liberties thereof, except the ſame Hackney-Coach or Coaches be to travel at the leaſt three miles out of *London* or *Weſtminſter*, or the Suburbs thereof, or farther. And alſo that no Perſon or Perſons ſhall go in a Coach in the Streets of *London* or *Weſtminſter*, or Suburbs or Liberties thereof, except the Owner of the ſame Coach ſhall and do conſtantly keep within the ſaid Cities and Suburbs thereof four ſufficient able Horſes or Geldings fit for His Majeſties Service, whenſoever His Majeſties occaſions ſhall require them, upon great Penalties contained in the ſaid Proclamation; and for the due execution thereof, His Majeſty doth Command all Juſtices of Peace, Majors, Bailiffs, Conſtables of the ſaid Cities and Suburbs, to be aiding and aſſiſting, whereby ſuch as wilfully do offend in the Premiſes, may be brought and preſented to His Majeſties Privy-Council, to be proceeded againſt according to the demerits of the Offenders.

It

11 Caroli.

It is worth obſervation, that in the firſt year of the Reign of King *Charles*, no Hackney-Coaches did ſtand in the Streets, but at their Stables, and they were ſent unto to come abroad by thoſe who had occaſion to uſe them: and there were not above twenty Hackney Coaches at that time, to be had for hire in and about *London*.

The grave Judges of the Law conſtantly rid on Horſeback, in all weathers, to *Weſtminſter*: All Lawyers in thoſe days pleaded in Ruffs, falling-bands came afterwards in faſhion.

February 1. The Priſing of Wines.

THe King by the advice of His Privy-Council, according to a Statute made in the fourth year of King *Edward* the third did publiſh and declare, that for one year following, *Canary-Wines*, *Muſcadels* and *Alicant* be ſold in groſs at 17 *l.* the Pipe, and at 12 *d.* the Quart; *Sacks* and *Malagoes* at 15 *l.* the But in groſs, and 10 *d.* the Quart by retail; *Gaſcoin* and *French Wines* at 18 *l.* the Tun; the *Rochel-Wines* at 15 *l.* the Tun, and at 6 *d.* the Quart by retail.

February 25. A Proclamation for the ſuppreſſing of *Felons and Out-laws, their Aydors & Abettors*, by bringing them to be anſwerable to the ſeveral Laws of the ſeveral Realms of *England* and *Scotland*.

WHereas the Kings Majeſty was informed by the Chief Landlords and Inhabitants of the Lands and Poſſeſſions next adjoyning to the Out-bounds of his Kingdoms of *England* and *Scotland*, that by the great and general Intercourſe, ſecret Practiſes and Combinations of Out-Laws, Felons and Malefactors of both thoſe Kingdoms, divers and ſundry Outrages and Felonies have been by them committed; The King hereupon taking into His Princely Conſideration the reformation of ſuch Miſchiefs; and calling to mind that ſundry the Chief Landlords of the Lands and Poſſeſſions next adjoyning to the Frontiers of the ſaid two Kingdoms, were contented to undertake to King *James*, that thoſe Tenants under them ſhould be anſwerable to the Kings Laws for any Felony or Capital Crime they ſhould be charged with; and if the Party Delinquent ſhould happen to fly, before he, or they ſhould be apprehended, and the Party grieved ſhould by courſe of Law Indict and Convict the Party or Parties Delinquent of the ſaid Felony or Felonies, that then the ſaid Landlord, to whom the Forfeiture of ſuch party Convicted ſhould accrew, ſhould make Reſtitution to the Party Grieved of ſuch Goods as were ſtolen from him by the ſaid Party or Parties Convicted; the ſaid Landlord being Authoriſed himſelf and Officers to ſearch for, and apprehend any Felons, Fugitives, Abettors, Out-putters, or any ſuſpected Perſons ſecretly lurking, remaining, or being within the ſaid Landlords Bounds or Limits, and him, or them to bring to anſwer to the ſeveral Laws of the Land: of which ſaid Undertaking the King did well approve; and did therefore command all Chief Landlords in the Counties of *Cumberland* and *Northumberland*, to put the ſame in Execution, to the utmoſt of their Power.

Titles of Proclamations for the Year 1635.

Whitehall *the* 11*th day of* April.

A *Proclamation prohibiting the uſe of the* Net *or Engine; called a Trawle.*

An. 1635.

Oatelands *the* 21*ſt day of* July. *A Proclamation to reſtrain the Kings Subjects* departing out of the Realm *without Licenſe.*

Oatelands *the* 26*th day of* July. *A Proclamation for the ſuppreſſing of profane* Swearing *and* Curſing.

Oatelands *the* 28*th day of* July. *A Proclamation for the better ordering of thoſe who repair to the Court, for their Cure of the Diſeaſe called the* King's Evil.

Bagſhot July *the* 31*ſt.* *A Proclamation for the ſetling of the* Letter-Office *of* England *and* Scotland.

Oatelands *the* 24*th day of* Auguſt. *A Proclamation declaring His Majeſties Royal Grace and Pleaſure to confirm to His Subjects their* defective Eſtates *in their Lands and Poſſeſſions* by his Commiſſion *lately renewed and enlarged to that Purpoſe.*

Windſor *the* 6*th day of* September. *A Proclamation for preventing of Abuſes of* Informers, *Clarks, and others in their* Proſecutions *upon the Laws, and Statutes of this Realm.*

Hampton-Court *the* 30*th day of* September. *A Proclamation Prohibiting the Importation of* Purles, Cut-works, Bonelaces, *made in foreign Parts, and for the* ſealing *of ſuch as are made within the Realm of* England *and Dominion of* Wales.

Royſtone the 14*th day of* October. *A Proclamation prohibiting the Importation of all ſorts of* Glaſs *whatſoever made in Foreign Parts.*

Hampton-Court *the* 1*ſt. day of* November. *A Proclamation to Reſtrain the Landing of men; goods, out of ſuch Ships as ſhall come from the parts of* France, *or the* Low-Countries, now infected *with the Plague, till they have warrant from the Officers or Farmers of His Majeſties Cuſtomers.*

Hampton-Court *the* 1*ſt. day of* November. *A Proclamation for reſtraint of* Exceſſive Carriages *to the deſtruction of the* High-Ways.

Whitehall *the* 18*th day of* January. *A Proclamation for the reſtraint of the Conſumption of the* Coyn *and* Bullion *of this Realm, and the deceitful making of* Gold and Silver Thread, *and for the regulating thereof for the time to Come.*

Weſtminſter *the* 19*th day of* January. *A Proclamation for the reſtraint of the Multitude and Promiſcuous uſe of* Coaches *about* London *and* Weſtminſter.

New-market *the* 1*ſt day of* February. *A Proclamation for the* Priſing of Wines.

Weſtminſter *the* 25*th day of* February. *A Proclamation for the ſuppreſſing of* Felons *and* Out-laws, *their Aiders and Abettors, by bringing them to be anſwerable to the ſeveral Laws of the ſeveral Realms of* England *and* Scotland.

Whitehall *the* 1*ſt day of* March. *A Proclamation concerning Farthing-Tokens.*

Historical Collections

for the Year, 1636.

The Arch-Biſhop of Canterburies *Diary.*

April 7. The Arch-biſhop of *Canterburies* Diary.

THurſday, the Bill came in this day that Two dyed of the Plague at *White-Chappel*, God bleſs us through the Year.

May 16. *Monday*, the ſettlement between *L. M. St.* and me: God bleſs me.

May 17. *Tueſday*, I viſited the Dean and Chapter of St. *Pauls London*, &c.

May 19. *Thurſday*, the Agreement between me and *L. K. Ch.* which began very ſtrangely, and ended juſt as I thought it would.

June 21. *Tueſday*, my Hearing before the King about my Right to viſit both the Univerſities *jure Metropolitico*, it was ordered with me; the Hearing was at *Hampton-Court*.

June 22. *Wedneſday*, the Statutes of *Oxford* finiſhed, and publiſhed in Convocation.

Auguſt 3. *Wedneſday*-night towards the morning, I dreamed *L. M. St.* came and ſhewed me all the Kindneſs I could ask, and that *Thurſday*, *Auguſt* 4. he did come and was very kind towards me, *ſomniis tamen haud multum fido.*

Auguſt 19, *Friday*, I was in great hazard of breaking my Right-Leg.

Auguſt 19 *Monday*, King *Charles* and Queen *Mary* entred *Oxford*, being to be there entertained by me as a Chancellor of the Univerſity.

Auguſt 30. on *Tueſday* I entertained them at St. *Johns* Colledge, it was St. *Felix* his day, and all paſſed happily. *Charles* Prince-Elector-Palatine, and his Brother Prince *Rupertus* was there; theſe Two were preſented in Convocation, and with other Nobles were made Maſters of Arts.

Wedneſday Auguſt 31. they left *Oxford*, and I returned homewards the day after, having firſt entertained all the Heads of Houſes together.

October 14. *Friday*-night I dreamed marvelouſly that the King was offended with me, and would caſt me off, and tell me no cauſe why: *Avertat Deus*, for cauſe I have given none.

November 20. *Sunday*-night my fearful dream, Mr. *Cob* brought me word, *&c.*

An. 1636.

December 24. *Saturday* at night, *Chriſtmas-Eve*; that night I dreamed I went to ſeek *M. St.* and found him with his Mother ſitting in the room, it was a fair Chamber, he went away, and I went after, but miſſed him, and after tired my ſelf extreamly; but neither could I find him, nor ſo much as the Houſe again.

March 26. To Inroll *Mare Clauſum.*

HIs Majeſty this day in Council taking into Conſideration a Book lately Publiſhed by *John Selden* Eſq; Intituled *Mare Clauſum, ſeu de Dominio Maris*, written by the Kings Command, which he had done with great Induſtry, Learning and Judgment, and hath aſſerted the Right of the Crown of *England* to the Dominion of the *Brittiſh* Seas. The King requires one of the ſaid Books to be kept in the Council-Cheſt, another in the Court of *Exchequer*, and a third in the Court of Admiralty, as faithful and ſtrong Evidence to the Dominion of the *Brittiſh* Seas.

April 5. Mariners.

THe Kings Majeſty being informed, that divers Marriners being Preſſed for His Service at Sea, have lately withdrawn themſelves from His Majeſties Ships, and are entertained by Merchants and others, doth require and command, That all ſuch Marriners do immediately repair to His Majeſties Service, for which they are or ought to be entertained for His Majeſties uſe. And the King doth inhibit and forbid all Merchants and Maſters of Ships whatſoever, to receive or continue any Mariner in their Service, who have deſerted the Kings Ships.

April 7. Plague.

THurſday the 7*th* of *April*: The Bill came this day, that Two dyed at *White-Chappel* of the Plague; and it appears by the Bill of Mortality given in *December* this Year, that there dyed in the whole of the Plague to the number of

His Majeſty, as to Mare Clauſum, *further expreſſeth His Pleaſure on the* 15th *of* April.

April 15. *Mare Clauſum* Printed beyond Sea.

'WHereas there was heretofore by the Kings Command Publiſhed a Book Intituled *Mare Clauſum, ſeu Dominio Maris*, 'for the manifeſting of the Right and Dominion of the King and His 'Royal Progenitors in the Seas, which incompaſs the Realms and Do'minions of *Great Brittain* and *Ireland*. And whereas, ſince the Pub'liſhing thereof, ſome have cauſed the ſaid Book to be Printed in 'ſome Place beyond the Seas, and to the ſaid Impreſſion have added 'more than what was therein printed at firſt, and hath falſly put in 'the name of the City of *London* for the place of the Impreſſion.

'The King doth require, that no perſon whatſoever, do, or ſhall 'import, publiſh, ſet to ſale, any of the ſaid Books of the ſaid For'reign Edition, either in *Latin* or *Engliſh*, except only ſuch as 'have, or ſhall be licenſed by the Laws and Cuſtoms of this 'Realm.

The

12 *Caroli.*

April 18. An Order againſt counterfeit Jewels.

THe Kings Majeſty having taken into conſideration the great quantity of Money exhauſted from His Subjects, and exported out of His Dominions into Forreign Parts for counterfeit Jewels, of Pearl, Pendants, Chains, and falſe Stones, carrying only a ſhew and ſemblance of Precious Stones, Pearls and Jewels. Doth, by the Advice of His Privy-Council, charge and command, That from henceforth no Perſon or Perſons whatſoever, do wear or uſe any counterfeit Jewels, Pearls, Pendants, Chains, or falſe Stones, upon pain of Forfeiture of the ſame, and ſuch other Pains as ſhall be inflicted upon them.

Upon the 19th *of* April *His Majeſty, as to the Liturgie deſigned for* Scotland, *thus expreſſed His Pleaſure*

Charles Rex,

Liturgy in *Scotland.*

'I Gave the Arch-biſhop of *Canterbury* Command, to make the 'Alterations expreſſed in this Book, and to fit a Liturgy for the 'Church of *Scotland*; and whereſoever they ſhall differ from ano-'ther Book Signed by Us at *Hampton-Court*, *September* 28. 1634. 'Our Pleaſure is, to have theſe followed rather than the former, 'unleſs the Arch-biſhop of St. *Andrews*, and his Brethren, who are 'upon the Place, ſhall ſee apparent reaſon to the contrary.

April 22. Plague.

THe Kings Majeſty finding, that the Infection of the Plague hath begun to break forth in ſome Places, near unto the City of *London*, and ſome other Parts of the Kingdom:

Doth, out of a provident Care, and for the ſafety of his People, (a timely uſe of good means being required to prevent the diſperſing thereof) take notice, that in the time of the laſt Plague, there were divers good Orders publiſhed, with Rules preſervative, and Directions againſt the Infection; His Majeſty is pleaſed that the ſaid Orders, Rules and Medicines ſhall be again now publiſhed and renewed. And doth therefore require all Juſtices of Peace, Majors, Sheriffs, and other Officers and Miniſters, to take knowledge of His Majeſties Pleaſure herein: and that every one in their ſeveral Places, where the Infection ſhall happen to be, uſe all care and endeavours effectually to prevent the ſpreading of the ſame.

1. *May* 1636. To prevent the *Printing of Books beyond Sea*, which were firſt Printed at the Univerſities in *England.*

'THe King doth declare His Pleaſure, That whereas in His 'Univerſities of *Oxford* and *Cambridge*, and in His City of 'London, divers Books not elſe-where Printed and Publiſhed, at 'the Coſts and care of ſome of the Kings Subjects, and afterwards 'ſome of the ſaid Books have been re-printed in the Dominion of 'Forreign Princes, or States, and from thence Imported, and put 'to Sale here; by which the Subjects (at whoſe Coſt the firſt Im-'preſſion was made) have been much prejudiced in the Sale of 'ſuch their ſaid Impreſſion.

'The King being deſirous to give ſpecial encouragement to all 'good and lawful endeavours, uſed to advance good Arts and Lear-'ning, and to prevent the like Importation, doth charge and com-

An. 1636. 'mand, That no perſon whatſoever ſhall import into the Realm of '*England* or *Ireland*, or Dominion of *Wales*; out of the Dominions 'of any Forreign Prince, or ſhall offer to put to Sale any Forreign 'Edition, or any Books or Copies, either in *Latin* or *Greek*, or in 'the *Hebrew*, *Caldea*, *Syriack*, and *Arabick* Tongues; the firſt Edi-'tion of publiſhing whereof hath been firſt come out of any Preſs 'or Houſe of Printing in the ſaid Univerſities, or out of the 'City of *London*.

The King appeared this Year with a formidable *Armado* in the Narrow-Seas, *Algernoune* Earl of *Northumberland* being Admiral, had 60 Sale under his command, who ſet out from the *Downs* towards the *North*, where the *Dutch Buſſes* were Fiſhing upon the Coaſts of the Iſles, part of the King of Great *Britain's* Dominions; but the Admiral requiring them to forbear, they ſeemed indiſpoſed thereunto; whereupon the Admiral fired at them; ſome of them were taken, other ſunk, and the reſt fled: And the *Dutch* immediately hereupon prevailed with the Admiral to mediate with the King, that they might by His Permiſſion go on this Summer to Fiſh upon the Coaſts, and agreed to give the King for this Year 30000 *l.* which was paid accordingly; and the *Dutch* expreſſed their willingneſs to obtain a Grant from the King, for their Permiſſion to Fiſh for time to come, paying a yearly Tribute.

His Majeſty thought fit at this time to declare His Pleaſure for Reſtraint *of* Fiſhing *upon His Majeſties Seas and Coaſts without Licence.*

10. *May* 1636. 'WHereas King *James* did, in the Seventh Year of His Reign 'of Great *Britain*, ſet forth a Proclamation touching Fiſh-'ing; whereby, for the many important Reaſons therein expreſſed, 'all Perſons of what Nation or Quality ſoever, (being not His Na-'tural-born Subjects) were reſtrained from Fiſhing upon any the 'Coaſts and Seas of *Great Britain*, *Ireland*, and the reſt of the '*Iſles* adjacent, where moſt uſually heretofore Fiſhing had been, 'until they had orderly demanded and obtained Licences from the 'ſaid King, or His Commiſſioners in that behalf, upon pain of ſuch 'chaſtiſement as ſhould be inflicted upon ſuch wilful Offenders: 'Since which time, albeit neither the ſaid King, nor His Majeſty 'have made any conſiderable execution of the ſaid Proclamation, 'but have with much patience expected a voluntary conformity of 'His Neighbours and Allies to ſo juſt and reaſonable Prohibitions 'and Directions, as are contained in the ſame.

'And now finding by experience, that all the inconveniences 'which occaſioned that Proclamation, are rather increaſed than 'abated: His Majeſty being very ſenſible of the Premiſſes, and well-'knowing how far he is obliged *in Honour to maintain* the Rights of 'His Crown, eſpecially of ſo great conſequence, has thought it 'neceſſary, by the advice of His Privy-Council, to renew the afore-'ſaid Reſtraint of *Fiſhing*, upon His aforeſaid Coaſts and Seas, '*without Licence firſt obtained from Him*; and by theſe Preſents do 'make

12 *Caroli.*

'make publick Declaration, That His Reſolution is, (at times con-
'venient) to keep ſuch a competent ſtrength of Shipping upon
'His Seas, as may (by Gods Bleſſing) be ſufficient both to hinder
'ſuch further encroachments upon His Regalities, and aſſiſt and pro-
'tect thoſe His good Friends and Allies, who ſhall henceforth, by
'vertue of Our Licences, (to be firſt obtained) endeavour to take
'the benefit of Fiſhing upon His Coaſts and Seas in the Places ac-
'cuſtomed.

16. *May* 1636. The King inhibits the Importation of Whale-Oyl or Whale-Fins.

'WHereas His Majeſty King *James*, by His Proclamation da-
'ted the 18*th* of *May*, in the 17*th* Year of His Reign, for
'the incouragement of His Subjects, the Company and Merchants
'Trading for *Muſcovy*, *Greenland*, and the Parts adjoyning, com-
'monly called the *Muſcovy-Company*, did inhibit the Importation of
'Whale-Fins by any perſon, other than by that Company:

'The King being now minded to give the like incouragement,
'which, by the increaſe of Navigation, conduceth much to the
'common Good of the King and People, doth now think fit to pro-
'hibit all Aliens, and Strangers whatſoever, as well as the Kings
'Natural-born Subjects, that they, nor any of them, other than the
'*Muſcovy* Merchants, only Import, or bring any Whale-Oyl or
'Whale-Fins into any of the Kings Dominions, upon penalty of
'forfeiture of the ſame, and upon pain of ſuch other puniſhment
'as by the Court of *Star-chamber* ſhall be thought fitting, and that
'none do preſume to buy, utter, ſell, barter, or contract for any
'Whale-Oyl or Whale-Fins of any others than of the *Muſcovy*-
'Merchant.

27. *May* 1636. The King by Two Proclamations *Adjourns* part of *Trinity-Term.*

'THe Kings Majeſty finding that the Infection of the *Plague*
'is at this preſent ſcattered and diſperſed in the Cities of *Lon-*
'*don* and *Weſtminſter*, and the Suburbs of ſome Pariſhes adjoyning
'to the ſame, and weighing the danger and inconvenience, which
'may fall out by the reſort of His Subjects from all Parts of the
'Kingdom to His Cities of *London* and *Weſtminſter*, for their ne-
'ceſſary Cauſes and Suits the next Term, hath thought fit, by the
'advice of His Privy-Council, to *Adjourn* ſome part of *Trinity-*
'*Term* next, from the ſecond Return thereof, until *Tres Trinitatis*,
'being the laſt Return of the ſame; and that to be for ſuch Cauſes
'as are hereafter expreſſed.

'See this Proclamation at large in the Appendix.

June 1636. *Trin'-Term.* Sir *R. B.* Knight refuſed to let the Caſe of Ship-money be argued.

WHereas *Richard Chambers* Merchant, having commenced a
Suit for Treſpaſs and falſe Impriſonment againſt Sir *Edward*
Bromfeild, for impriſoning him the ſaid *Chambers*, for refuſing to pay
Ship-money in the time that Sir *Edward Bromfeild* was Lord Major
of the City of *London*; in which Suit the ſaid Sir *Edward Bromfeild*
did make a ſpecial Juſtification: Sir *R. B.* Knight being then one
of the Juſtices of the Court of *Kings-Bench* in *Trinity-Term* 1636.
then ſitting on the Bench in the ſaid Court, upon debate of the
ſaid Caſe between the ſaid, *Chambers* and Sir *Edward Bromfeild*,
ſaid openly in Court, That there was a *Rule of Law*, and a *Rule*
of Government, and that many things which might not be done
by the Rule of Law, might be done by the Rule of Government,
and

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and would not ſuffer the Point of Legality of *Ship-money* to be argued by *Chambers* his Councel.

June 6. The opinion of all the Judges, whether the Books written by *Burton* and *Baſtwick* did amount to High-Treaſon

Upon *Tueſday* the *6th* of *June* 13 *Caroli*, all the Judges met at *Serjeants-Inn*, and all the Kings Council, about ſeditious Books written and diſperſed by Mr. *Burton*, and Dr. *Baſtwick*. After ſeveral Speeches made by the Kings Councel, endeavouring to prove that there were divers Paſſages in the Books that amounted to High-Treaſon: The Judges in their abſence debated the Buſineſs, and reſolved as followeth.

1. That if there were any thing in the Books that amounted to Treaſon, no Indictment would be found good for Treaſon, unleſs it was grounded upon the Statute of 25 *Edw.* 3. either for compaſſing the Kings Death, or imagining the ſame, or elſe for levying of War.

2. If any Man ſeditiouſly, maliciouſly, and of purpoſe to raiſe Rebellion, and to incite Rebellion, did take Arms to reduce the courſe of Government, of the State, either Eccleſiaſtical or Civil, and thereby to compaſs the Kings deſtruction, this was Treaſon.

3. That the Indictment was to be framed upon the ſaid Statute of 25 *Edw.* 3. and further the Judges went not that day. And this was delivered by the Lord Chief-Juſtice to the King and Council, and ſo they parted at that time.

About this time the *New-Statutes* for the Univerſity of *Oxford* were finiſhed and publiſhed in Convocation.

The Preface to thoſe Statutes diſparaged King *Edwards* Times and Government, declaring, that the Diſcipline of the Univerſity was then diſcompoſed and troubled by that Kings Injunctions, and the flattering novelty of the Age, and that it did revive and flouriſh again in Queen *Maries* days, under the Government of Cardinal *Poole*; when, by the much to be deſired felicity of thoſe Times, an in-bred Candor ſupplied the defect of Statutes.

THis ſame Year there aroſe a Difference between the Arch-biſhop and the Two Univerſities, *Oxford* and *Cambridge*, concerning the Right of Viſiting thoſe Univerſities; the Arch-biſhop claiming it *Jure Metropolitico*, and they Pleaded that it was ſetled in the King alone, as King, and their Founder. This Cauſe came to a Hearing before His Majeſty, ſitting in Council; Sir *John Banks* the Kings Attorney-General Pleading for the Arch-biſhops Right, and the Kings; the King then in Perſon arguing and giving Judgment againſt himſelf.

The Buſineſs debated in the Kings Preſence.

At *Hampton-Court*, on the 21*ſt* of *June*, the King and Council being ſat, the Lord Arch-biſhop ſtanding at the Right-Hand of the King, ſpake to this effect. That by Letters he had acquainted the Two Univerſities, that he conceived he had power to Viſit them, as being within his Province, and Metropolitical Juriſdiction, and deſired to know their Anſwers. To this a civil Anſwer was returned, both from *Oxford* and *Cambridge*, That to yield to ſuch

ſuch a Propoſition by their own Power, without a Command from His Majeſty, were a wrong to the Univerſities. Thereupon he delivered a Petition to His Majeſty, and deſired a Gracious Hearing; and now he humbly beſought His Majeſty to do him the favour to hear this Cauſe; for the Church of *England* ſhould never be able to ſettle things right without ſome Power over the Univerſities. 12 *Caroli.*

Then the Earl of *Holland*, Chancellor of the Univerſity of *Cambridge*, ſtanding at the Left-Hand of the King, ſpake, and ſaid, That he hoped His Majeſty would not ſuffer that Univerſity to loſe its ancient Priviledge; it being never wont to be Viſited, ſave by His Majeſty, and thoſe by Commiſſion from him, and ever exempted from the Viſitation of any Biſhop or Arch-biſhop.

Then the Attorney-General argued, as followeth. The Kings Attorney argueth for the Arch-biſhop.

The Queſtion in ſhort is, whether the Arch-biſhop of *Canterbury*, as Metropolitan, ought to Viſit the Univerſities of *Oxford* and *Cambridge*, as being within his Province? This doth no way intrench upon Your Majeſty, for it muſt be acknowledged, that Your Majeſty is the Supreme Ordinary, and hath Supreme Juriſdiction, and may Viſit both Univerſities by Your Commiſſion, notwithſtanding You may do it by Your Lord Arch-biſhop; this is an undoubted Right. My Lord Arch-biſhop hath a double Capacity; the one as Arch-biſhop, the other as Chancellor of *Oxford*. He deſires to do equal Juſtice, and to offer no otherwiſe to that Honourable Perſon, the Chancellor of *Cambridge*, than to himſelf. Biſhopricks and Arch-biſhopricks are all of them of Your Majeſties, and Your Royal Progenitors Foundation, originally Donative, long before the Conqueſt, and before time of memory: And as ancient as the Arch-biſhop is, ſo ancient is the Juriſdiction. The Viſitation of the Arch-biſhop is of Common Right, and not of ſpecial Perſons, but of the Clergy, and the People in all Cauſes that be Eccleſiaſtical, and in all Places within his Province, without any manner of Exception. By the Statute of 21 *H.* 8. it doth appear, that all Houſes of Religion, all Colledges, *&c.* are within the Viſitation of the Arch-biſhop of the Province. And by another Statute expreſs Proviſion is made, that in all Places, as well exempt, as not exempt, the Arch-biſhop ſhall have Power to Reform, and puniſh thoſe that do ought againſt the Orders of the Church, Common-Prayer, *&c.* 13 *Eliz.* a Statute which confirmeth the 39 Articles, entruſteth the Lord Arch-biſhop to ſee the Doctrine of the Church maintained. It will appear, that in the time of *Edw.* 1. *Rich.* 2. *Edw.* 4. the Arch-biſhop Viſited the Univerſity in his own Metropolitical Right, and not by any *Bull* from the *Pope*; and there is as urgent neceſſity in theſe Times. Many things may be omitted by the Chancellors, that are commonly great Men, and many things to be Reformed concerning the Adminiſtration of the Sacraments, and the Orders of the Church. In *Cambridge* there may be Chappels that were never yet Conſecrated. In the review of all Eccleſiaſtical Laws appointed by Act of Parliament in the Times of *H.* 8. and *Edw.* 6. which ſhew the opinion of the Times; it appeareth expreſly, there ſhould be no Exemption of Colledges from the Arch-biſhop's Viſitation.

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Sir *John Lamb* ſeconds the Kings Attorney.

Sir *John Lamb* ſeconded the Kings Attorney, and ſaid, The Arch-biſhop Viſiteth of common Right, and the Univerſities are parts of his Province, and the Burthen is caſt on the other ſide to prove the Exemption. That in Cauſes handled in the Univerſities they had a Remedy to appeal to the Arch-biſhop, who heard the Complaints of the Parties, and Viſited them; this he ſaid he would ſhew by Record, which had been kept many Hundred Years.

Hereupon His Majeſty commanded the Univerſities to ſhew their Exemption, and propoſed that one ſhould ſpeak for both; but it was anſwered, that the Defences for both were different one from the other.

Then Mr. *Gardiner*, Recorder of *London*, ſpake on the behalf of *Cambridge*.

The Recorder of *London* on the behalf of the Univerſity of *Cambridge*.

In ſtating this Queſtion it's thus far agreed, That Your Majeſty hath power of Viſitation; but the Queſtion is, whether Your Majeſty hath the ſole Power, or my Lord's Grace a Power concurrent with Your Majeſty.

No, ſaith the King, the Queſtion is, whether he hath not Power to Viſit there as within his Province.

The Recorder thus proceeded. I ſhall tell your Majeſty what I conceive of Metropolitical Viſitations, and then of the manner of Government, and Rule of the Univerſity; and then how the Rule of the one will ſtand with the other. And laſtly, I ſhall offer what we have for Exemption.

In *England* there be Arch-biſhops, Biſhops, and Arch-deacons. The Biſhop hath his Viſitation every Three Years; my Lord's Grace hath his Viſitation once in his time, and he Viſiteth thoſe of the Province; to the end they may be ſubordinate, and in all their Cauſes and Sentences they Appeal to him as Superiour.

Here the Arch-biſhop interpoſed, ſaying, I may Viſit as oft as I will.

Mr. *Gardiner* went on. For the Government of the Univerſity there is a Chancellor, Vice-chancellor, Proctors, *&c.* They may proceed by way of Excommunication; they may impriſon and baniſh, which is more Power than appertains to any Metropolitical Viſitation. Only one Biſhop of *Ely* did Excommunicate one of this Univerſity; but the Biſhop was afterwards Excomunicated; and the Cauſe being heard before Cardinal *Wolſey*, he was made to ſubmit himſelf. Further than this we find no Preſident, that either the Ordinary of the Dioceſs, Arch-deacon, *&c.* did ever meddle.

R. 2. In the Petition to the Parliament. We are ſtil'd an Univerſity founded by Your Majeſties Progenitors: wherefore the Power of Viſitation doth of right belong to Your Majeſty, and this is an Exemption from any ordinary Juriſdiction. For other Exemptions, We have *Bulls* from the *Pope*, and Charters: about the beginning of King *Richard* the 2*d*'s Time moſt of the Charters were burn'd by an Inſurrection in the Town; but many of them were Confirmed to the Time of *H.* 6. upon a Suit made to the Pope, to give ſome Confirmation to their Priviledges, in regard their Charters were burn'd. Whereupon the *Pope* granted a Commiſſion, and Witneſſes were examined, which Examination was a means

means to produce Two ancient *Bulls*, exempting them from Metropolitical Viſitation; the one bearing date *Anno* 624. the other 699. 12 *Caroli.*

The Arch-biſhop ſaid, Theſe Exceptions were not to be found in any Priories, or Nunneries at the firſt Foundation; but as ſoon as they got any Money, they ſent preſently to *Rome* to get an Exemption; and by that means the Biſhops loſt their Reputation, and Juriſdiction, even the Council of *Trent* and *Spaniſh* Biſhops have all plaid their part herein. And this is the Complaint of whole Chriſtendom againſt the Council of *Trent*; of which, next to Purgatory, the Pope of *Rome* hath made his great Advantage. Unto this the King ſaid, I dare ſay the Pope doth as much to beat down Biſhops, as any Puritan doth in *England*.

In the Cloſe the Arch-biſhop proceeded thus.

There are Three Chappels in *Cambridge* not Conſecrated. I demanded why they were not? Dr. *Chadderton* made anſwer, He hoped they were Conſecrated by Faith and good Conſcience. They come into the Chappel without Surplices, and other dangers are growing, and the Univerſity will be paſt remedy before any Complaint be made.

The Earl of *Holland* anſwered, All this may be Reformed in the way that we deſire. If you will Viſit, you may do it by Commiſſion; the King can grant it. The Biſhop replied, No; I deſire to have my own Power.

Upon the Hearing of the whole Cauſe, it was declared by the King, with the Advice of the Privy-Council, That it was granted on all Hands, that the King had an undoubted Right to Viſit the Univerſities; and that the Arch-biſhop, in the Right of his Metropolitical Church in *Canterbury*, had Power to Viſit the whole Province, in which the Univerſities were ſituated, and were under the ſame Power, unleſs they could ſhew Priviledge and Exemption.

That the Exceptions then alledged were not ſuch as could give Satisfaction. That they could be Exempted by no Papal Bull; and that they were Exempted by none of their Charters. That the long omiſſion of the Arch-biſhops to Viſit, could be no preſcription to bar the Right of the Metropolitical See. That it appear'd, that both Univerſities had been Viſited by Three Arch-biſhops, his Predeceſſors *Jure Metropolitico*, and not by a Legative Power. That this coming in queſtion, upon the reſiſtance of the Univerſity of *Oxford*, it was, upon full Hearing of both Parties, adjudg'd for the Arch-biſhop by King *Richard* the 2*d*, and afterward, upon the like Hearing and Re-examination by King *Henry* the 4*th*, and both of their Judgments eſtabliſhed by Act of Parliament 13 *Hen.* 4. And the Arch-biſhop produced before His Majeſty the Original Renunciation of all Priviledges from any *Pope*, made by the Univerſity of *Cambridge* under the Hands of the Heads of Houſes.

So the King and Council adjudg'd the Right of Viſiting Univerſities, and Chancellors Scholars, and all Perſons enjoying the Priviledges thereof, to belong to the Arch-biſhop, and Metropolitical Church of *Canterbury* by themſelves or their Commiſſaries.

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Whereupon the Arch-biſhop made this motion to the King: Firſt, for himſelf, that His Majeſty would be Graciouſly pleaſed, that he might have the Sentence drawn up by the Advice of His Majeſties Learned Councel, and put under the Broad Seal, to ſettle all differences that hereafter might ariſe. Then on behalf of both the Univerſities, that they ſhould remain free and exempt from the Viſitation, and Juriſdiction of the Biſhop of the Dioceſs, or Arch-deacon.

Alſo, ſeeing it was declar'd to be his Right to Viſit Metropolitically, and it was not limited by Law how often; therefore, notwithſtanding the laſt Cuſtom of Viſitation *ſemel in vita tantum*, that he might Viſit the Univerſities by himſelf, or his Commiſſary, as often as any great emergent cauſe ſhould move him: provided that neither he, nor any of his Succeſſors, ſhould, after the firſt Viſitation, Viſit upon ſuch emergent Cauſes, unleſs it be firſt made known to His Majeſty and His Succeſſors. All which was granted by the King, and ſo ſetled.

Laſtly, Whereas it was alledged, that the Chancellors of either Univerſity were, and are like to be Perſons of great Honour and Eminencie; and therefore it might be inconvenient, that they ſhould be call'd to ſuch Viſitation: It was declar'd by His Majeſty, that in the courſe of Law the Chancellor would be allowed to appear by his Proxie.

Serjeant Thin *deſired leave of His Majeſty to ſpeak a few words for the Univerſity of* Oxford, *which was to the effect following, he being the Mouth of the reſt of the Councel.*

Serjeant *Thin.* THat it was an ancient Univerſity, and had as ancient Priviledges, and, by Bulls from the Pope, was ever exempt from the Viſitation of any Arch-biſhop as in his Metropolitical Right; for as none can Found an Univerſity but Your Majeſty, and Your Progenitors, ſo none have Power but Your Majeſty to Viſit there. But that which concerneth us is, that it was a Foundation long before the Conqueſt; from the time of the very Foundation of this Univerſity unto this day, we conceive there was never any Viſitation made by any Arch-biſhop, as being within his Province.

King. *Never any*, (ſaith the King:) As the Univerſity is ancient, ſo likewiſe Our Cuſtom is as ancient, which for many Hundred Years we may preſcribe (the King anſwered) *but a bare Preſcription in this Caſe will not prevail.*

Thin. We have no Records ſo old, yet this we have, divers Recitals in *E.* 3*d's* time, which ſheweth, that they had ſome original Grant of Exemption. Pope *Boniface* 8. did grant to the Univerſity of *Oxford* a particular Exemption from all Archiepiſcopal Juriſdiction; but I know well that there will be an Objection made, that the Pope did grant a Juriſdiction there. This Difference came before the King, and the King then did declare, That the Viſitation did belong to the Arch-biſhop of Right.

King. *What is that? Did the King declare that it did of right belong to the Arch-biſhop to Viſit there? that's very hard for you to anſwer.*

Thin.

12 *Caroli.*

Thin. I object thus againſt my ſelf (to ſhorten the Caſe) for if I do not, they will.) This was in King *Rich.* 2*d's* time. The occaſion was upon the Queſtion touching *Wicliffe* his Caſe grounded upon a miſtaking of the Law. Before that time there was never ſo much as a Challenge to Viſit this Univerſity Metropolitically.

King. *I will not grant that (Mr. Serjeant) that my Predeceſſor did miſtake the Law, perhaps he was miſ-informed of the Law.*

Thin. Pardon me for the Phraſe; the King was miſ-informed as we conceive of the ancient uſage and manner there.

King. *You muſt ſuppoſe the King did know it.*

Thin. The Arch-biſhop was then a Potent Man in thoſe days.

King. *My Lord Arch-biſhop doth not intend to Viſit the Statutes of the Univerſity, nor of any particular Colledge.*

Arch-biſhop. I do intend to Viſit Metropolitically. I am to Viſit, as I conceive, the Body of the Univerſity, and every Scholar that is in it, for his obedience to the Doctrine and Diſcipline of the Church of *England*; and this is the extent I intend, and not to meddle with the Statutes of Colledges or Univerſity, or particular Viſitors of any Colledge.

King. *I do underſtand why you do not meddle with that, becauſe it is my foundation.*

Arch-biſhop. I do ſuppoſe they do tell you of that which they will not make appear to be your foundation.

Thin. There was never ſince the firſt foundation of this Univerſity any Viſitation made by any Arch-biſhop; ſeveral have been made by the Kings themſelves, but never by the Arch-biſhop.

King. *As I remember you did confeſs he did Viſit once.*

Thin. No, only an attempt to Viſit was made by Arch-biſhop *Arrundel*, who was reſiſted by the Univerſity I will give up the Cauſe if he can ever find any Appeal of any Cauſe to the Arch-biſhop of *Canterbury* from that Univerſity. I find it in *Fitz. N. Bre.* that the Chancellor of *Oxford* may certifie an Excommunication. From whom had the Chancellor that Juriſdiction, but from the King? then thoſe Acts are not to be Viſited by any Power but by the King.

King. *That is no good Inference, for every Biſhop hath Power to Viſit.*

Thin. Since *de facto* the Arch-biſhop did never Viſit *Oxford*, but was ever Viſited by Your Majeſty, or by Commiſſion from Your Majeſty, and withal, their ancient Charters they have loſt, which might (if they had them) ſhew their Priviledge; and ſince there is ſo memorable a Preſcription in this Caſe for ſo many Hundred Years, we humbly deſire (with Your Majeſties Favour) to be ſtill Viſited by Your Majeſty.

Arch-biſhop. Theſe Exemptions were not to be found in any *Nunneries* or *Priories* at the firſt Foundation; but as ſoon as ever they got any Money, they preſently ſent to *Rome* to get an Exemption, and then by that means the Biſhops loſt their Reputations, and ſo brought down the Juriſdiction of the Biſhops, even at the Councel of *Trent*; and *Spaniſh* Biſhops have all plaid their parts herein. And this is the Complaint of whole Chriſtendome againſt the Councel of *Trent*, of which, next to Purgatory, the Pope of *Rome* hath made his greateſt advantage.

An. 1636.

King. *I dare ſay the Pope doth as much to beat down Biſhops as any Puritane I have in* England *doth.*

Arch-Biſhop. King *H.* 8. by Statute thruſt out all, and whatſoever power the Pope had given in *England* by Bull, *&c.* all is gone at one blow by that Statute? Now I will ſhow you a Bond from the Univerſity of 1000 *l.* that if they oppoſe my Juriſdiction then to be forfeit, I ſpeak it upon my Reputation and Duty to Your Majeſty. *Ann.* 1506. *Chriſts Colledge* was ſubject to the Biſhops Viſitation: I am able to ſhow the very original *Deed* in *H.* 8's time, where the Univerſity of *Cambridge* have ſubmitted themſelves to the Arch-Biſhop, and here is the Original-Deed (which was read and ſhowed to His Majeſty) being a ſubmiſſion of the Univerſity to the Arch-Biſhop, and to diſclaim any right by Bull or the like. If I ſhould have put them to have ſubmitted upon this evidence, they would have ſaid either for fear, or one reſpect or other, they had ſubmitted to your Arch-Biſhop without any hearing. Therefore not to put this upon either Univerſity, I got Your Majeſty to hear it, if you have any thing to ſhow for it, God forbid I ſhould deſire it if you have better evidence. If not, then I hope His Majeſty will give me leave to carry it.

King. *Read the date of the Deed my Lord ſtands ſo upon* (which being read was dated 27 *H.* 8.

Arch-Biſhop. So your Majeſty may ſee before the Common-Law did take that away, they did ſubmit themſelves a year before. I will make it appear that the Arch-Biſhop did viſit *Cambridge* as in Metropolitical right three whole years together, and that it is ſo expreſſed in the Act.

King. *They ſay that the Biſhop was then a powerful man, and the times were troubleſome.*

Biſhop. They tell you indeed 20 *R.* 2. was a troubleſome time, but of 12 *H.* 6. they do not tell you what a troubleſome time that was.

King. *But was* Cambridge *viſited three whole years.*

Recorder. It is true, we did continue it for three whole years. I did in the opening of it mention as much, that he did viſit *Ann.* 1401. and did continue it till 1404, and that in the ſtory of that time, he did it by a Metropolitical right (as it is ſo mentioned) but how dangerous thoſe times were, we have opened, and ſince that time never any ſuch offer was made.

Kings Attorney-General, Sir *John Banks,* May it pleaſe your Majeſty, their main objections conſiſts of Bulls. Now concerning any Bull or Exemption from the Pope, they are of no force, and though they here plead it verbally, yet they will not do it upon Record; for that Statute which bringeth them in a power, that Statute doth make all void: It is true, there is a ſaving of ſome that are confirmed under the Great-Seal, but they make no ſhew of them, ſo as clearly they are out of the exception of that Act of Parliament of 28 *H.* 8. Then they object, that the Univerſity is of the foundation of the King, and there the Biſhop hath no Metropolitical Viſitation. 1 *E.* 6. The Deanry of *VVells* was diſolved, upon that a new Foundation, and *E.* 6. the Founder, and to him was the Donation of the Deanry; yet in that caſe it is expreſly adjudged, that the Arch-Biſhop in his Metropolitical Viſitation may viſit the Deanry:

12 *Caroli.*

Deanry: It is true, he may not viſit their Lands and local Statutes. It was further objected, there was no Viſitation within theſe 200 *years*, and therefore a *Preſcription* for it. But as to that no Civilian will allow, that any Preſcription lieth againſt a Metropolical Viſitation. I have looked upon the Statute, and I do find no particular exemption from any Juriſdiction that is Metropolitical. They ſay further, that the Viſitation made by *Peckham*, was by vertue of the *Legantine* Power, and the other Viſitations are *de jure Metropolitico*.

King. *They ſay that* Peckham *did viſit as* Legatus Natus.

Attorney. That is plain to be diſtinguiſhed by the Records.

Arch-Biſhop. In Cardinal *Pools* Caſe, he doth viſit by Legantine power (if he will uſe the ſtile of greater dignity than Arch-Biſhop) Shall therefore that which he doth by the name of dignity loſe his Power as Arch-Biſhop?

Attorney-General. Divers Lord Treaſurers, ſome have been Biſhops of *Oxford* ſome of *Lincoln*, ſhall they loſe their Power as Arch-Biſhops? The Biſhoprick of *London* hath not been viſited theſe 200 years till now.)

Dr. *Duck*. *Legatus Natus* hath only power to grant a Viſitation) but to Viſit, I do think they can never find that he ever had Power but Metropolitically.

King. *The Queſtion is whether* Legatus Natus *can viſit as Legatee, and not as Arch-Biſhop*.

Recorder. I think he cannot; but only by vertue of his Legantine Power he might viſit.

Biſhop. *Legatus Natus*, and *Legatus a Latere*. The one Legate can viſit, the other Legatecannot.

Recorder. We appeal to this Biſhop *Arrundel* as *Legatus Natus*.

Arch-Biſhop. I thank you for that Evidence, *Cambridge* did not oppoſe *Arrundel*, but *Oxford* did it. What if he were baniſhed the Realm, he was baniſhed for bringing in a Bull. In *E.* 1, *&* *E.* 3 time it was common to ſend forth Proclamations againſt any that brought Bulls from the Pope.

Recorder. When this Queſtion was between *Oxford* and *Arrundel*, there was an Order in Chancery for ſearch for Bulls: and declared that this was againſt the Crown, and like to be the deſtruction of the Univerſity.

Arth-Biſhop. What was done then in *R.* 2's. time, which they ſay was ſo troubleſom a time. Yet *H.* 4. did declare the very ſame judgement his Predeceſſor had done, and confirmed it by Act of Parliament, that it doth belong unto the See of *Canterbury*, as of right to viſit the Univerſities, upon penalty of 1000 *l.* upon every time that he ſhould diſobey, and a forfeiture of all their Priviledges, if they did diſobey it. And I ſhewed a *Deed* under the Great-Seal, which the Councel for the Univerſity did confeſs.

King. *What can you ſay againſt this?*

Recorder. I ſhall ſubmitt the Cauſe unto Your Majeſties Judgement, for that which hath been urged of King *H.* 4. It is true, and they do declare that *de jure*, he ought to viſit; it is true, it is ſo declared by Parliament, but this is only for *Oxford* and not for *Cambridge*. *Cambridge* is not ſo much as mentioned: My Anſwer is but this, It doth appear in the very Record it ſelf, that the Univerſity of

An. 1636. of *Oxford* had got an exorbitant Bull from the Pope, to exclude all manner of People that countenanced Hereticks.

King. *No that cannot be.*

Recorder. The Record it ſelf ſaith it was gotten to countenance Hereticks, and other Malefactors; they did oppoſe the Archbiſhop *manu forti.* The State taking offence at this, thereupon there was a ſubmiſion to the Judgement of *R.* 2. And thereupon he did declare, and *H.* 4 grounded his Judgement upon that the Biſhop of right ſhould viſit, and *H.* 4. doth diſanull the Bull as being againſt Law.

Lord Privy-Seal. There comes a Grant of later Kings, and takes notice of theſe Priviledges and Exemptions, and confirms and ratifies all ſuch Priviledges as they do claim by any Charter or colour of any Bull.

Recorder. He doth confirm all Liberties or Grants. If my Lords Grace may viſit the Univerſity, then he may viſit the Chancellor; and of late time they have been perſons of great Honour attending upon your Majeſty, and ſo may be called away from your Majeſty upon a Viſitation to attend there.

Arch-Biſhop. He may appear by Subſtitute.

Holland. If your Grace will viſit, you may do it by Commiſſion; the King can grant it.

Biſhop. No, I deſire to have my own Power.

And ſo the King adjudged it for the Arch-Biſhop againſt himſelf; and permitted the Kings Attorney-General to plead for the Arch-Biſhop againſt the King.

Some few paſſages more in way of Dialogue there were, but this is all taken in Characters at that time; but ſee for the Order of the King, and the Lords of the Council, upon this Hearing at large in the Appendix.

July 8. Star-Chamber Sir *Pierce Croſby* to Anſwer Interogatories.

A Warant was on the 8*th* of *July* 1636. directed to *Mathem*[illegible] *Francis* Eſquire, one of His Majeſties Serjeants at Arms, re[illegible] citing, whereas Sir *Pierce Crosby* Knight and Baronet, ſtandi[illegible]g charged with divers Crimes, by an Information at the ſuit of [illegible]is Majeſty's Attorney-General in the Court of *Star-Chamber*, for ſcan[illegible] dalizing the Lord Deputy of *Ireland*, doth withdraw himſelf from the uſual place of his abode, ſo as the courſe of Juſtice by His Majeſties Writs and Proces cannot proceed againſt him; theſe are in His Majeſties Name to Will and Command you, to make your preſent repair unto any place *priviledged or not priviledged*, where you ſhall underſtand of the ſaid Sir *Pierce Crosby* his Being or Reſidence, and by vertue hereof to apprehend him, and to deliver him over to the Cuſtody of one of the Meſſengers of His Majeſties Chamber, to remain with him in ſafe Cuſtody, untill he ſhall have anſwered the ſaid Information and Interogatories againſt him; and in caſe of need theſe are in His Majeſties Name, to Will and Command all His Majeſties Officers, whom it may concern, to be aiding and aſſiſting unto you herein, that thereof they may not fail, as they will anſwer the contrary at the *Star-Chamber.*

Likewiſe

12 *Caroli.*

For a Commiſſion about *Depopulation.*

LIkewiſe a Warrant was on the 9*th* of this month of *July* directed to the Clerk of the Crown or his Deputy in His Majeſties Name, His Majeſties eſpecial ſervice to prepare ſeveral Commiſſions according to the form delivered unto him, to inquire touching Depopulations and converſions of Lands to Paſture ſince the tenth year of Queen *Elizabeth* in the Counties of *Oxford*, *Cambridge*, *Warwick* and *Nottingham*, directed to *Edward Savage* and *Edmond Windham*, two of the Gentlemen of His Majeſties Privy-Chamber, and to *Gilbert Boon* of *Lincolns-Inn* Eſquire, or any two of them.

By vertue of which Commiſſion, and the terror of the Fine impoſed in the *Star-Chamber*, on Sir *Anthony Roper* for committing Depopulations, there was brought into the Exchequer 30000 *l.* and upwards —— The like Commiſſions were granted into other Counties.

July 9. Letters Patents for the ſurveying and ſetling a conſtant Reel.

'WHereas Complaints have been heretofore made, as well unto His Majeſty King *James* in his life-time, and unto 'His now Majeſty ſince His acceſs to the Crown, and alſo to His 'Privy-Council, and the Juſtices of Aſſizes in their Circuits, and 'Juſtices of the Peace in ſundry Counties at their Seſſions, of the 'great deceits frequently uſed among Weavers, Combers, Spinſters 'and other workers and makers of *Cloth* and Yarn, by the daily falſifying their Yard, as well in the length of the *Reel-Staff*, as in the 'number of Threads:

'For Remedy and Reformation whereof, and for ſetling a conſtant 'courſe for the ſaid *Reel*, and increaſe of the Poors Wages; It 'hath been thought fit, that the courſe of keeping the *Staff-Reel* 'may proceed and go on for the general good of the People; and 'that the Spinſters ſhall have for their Spinning and Reeling *a* '*peny increaſe*, and Labourers imployed about the Trade of Cloathing 'and Yarn-making, ſhall have the increaſe of Wages. And for the eſtabliſhing of the ſame, the King hath by *Letters Patents*, bear- *Jan.* 20. 'ing date the 20*th* of *January* laſt paſt, ordained and appointed 'there be a *conſtant Reel* provided and kept by all and every Clo- 'ther, Weaver, Comber, Spinſter, and other Workers and Makers 'of Cloth and Yarn, either Woollen or Linnen, and the Reel-ſtaff 'to be one yard about the ſingle Reel, and two yards about the 'double Reel, every Knot containing fourſcore Threads.

July 26. The King prohibits the keeping of *Bartholomew*-Fair and our Lady Fair in *Southward.*

'HIs Majeſty the better to prevent the danger and increaſe of 'the preſent *Infection*, hath given ſeveral directions to the 'Lord Major of *London* and Juſtices of Peace, to prevent concourſe 'of People; yet finding the Plague is diſperſed in and about 'the City of *London* and *Southwark*, which if the Fairs of *Bar-* '*tholomew* and Our *Lady* in *Southwark* ſhould be held, might in all 'likelihood increaſe the Sickneſs; His Majeſty therefore hath 'thought good, to require all His Subjects to forbear to reſort this 'year to thoſe Fairs. And doth enjoyn the Lords and others inte- 'reſted in the ſame, that they do not hold the now next *Bartholo-* '*mew* Fair.

The

An. 1636.

Auguſt 8. 1636.

The Lords of the Privy-Council writ this enſuing Letter to the Lord Major *and Aldermen of the City of* London.

WE have received by ſome of you the Aldermen a denial in the name of the City to Our late Letter, for the ſetting forth of Shipping for the preſent and neceſſary defence of the Kingdom, and the excuſes which are made ſince, upon the like occaſions; We cannot impute it truly to any thing but want of Duty. We do therefore in His Majeſties Name, and by His commandment, require you to ſee the directions of Our ſaid Letter performed upon your allegiance, and as you will anſwer the contrary at your perils. And ſo, &c.

Auguſt 11. AFterwards there was preſented to the Board a Petition from the Major and Commonalty of *London*, by Mr. Recorder, Sir *William Cockin*, and divers Aldermen and Commoners, deſiring an abatement of the Twenty Ships rated upon the City, unto Ten Ships and Two Pinnaces, alleadging want of ability, notwithſtanding the abſolute Declaration formerly given by the Board.

That the Caſe at this time might no farther be replyed unto, Mr. Secretary *Cooke*, by Order of the Board, made anſwer to the effect following.

That the former Commandment given unto them, firſt, was neceſſary, becauſe the Board knoweth that the preſervation of the State did require it. Secondly, that the Charge required for the performance of the ſaid Commandment was not immoderate for the whole City, which exceeded not the proportion of many of their private Eſtates. That to this Commandment Petitions and Pleadings were not to be received, which tend to the danger and prejudice of the Common-wealth. That as the Commandment was given to all in general, and to every Particular of the City, ſo the State would require an account Both of the City in general, and of every particular of the performance of it; for which purpoſe they had formerly received direction. And that whereas they mention Preſidents, they ſhould know that the Preſidents of former times were obedience, and not direction. And that there were alſo Preſidents of the puniſhment of thoſe that diſobey'd His Majeſties Commandments ſignified by the Board, in the caſe of the preſervation of the State, which they hope there ſhould be no occaſion to let them more particularly underſtand.

Ferdinando, Emperor of *Germany*, took a Reſolution to ſettle the Empire in Peace after ſo bloody a War; and called a Dyet to meet at *Ratisbone* the midſt of *September*, where the Emperors Son, already King of *Bohemia*, was propoſed to be elected King of the *Romans*.

At which time the Earl of *Arundel*, Earl *Marſhal* of *England*, was ſent Ambaſſador to this new Emperor, to whom he preſented the conditions of the Prince-Elector-Palatine his great ſufferings; and

12 *Caroli.*

and the Ambaſſador endeavoured to prevail with the Emperor for his Reſtoration, which he hoped his now Imperial Majeſty would be diſpoſed unto: but all the Anſwer he could obtain of the Emperor was, that in time no doubt ſome conſideration might be had of him for enjoying the lower Palatinate; but for the other it much concerned the Duke of *Bavaria*, who was in poſſeſſion thereof: and that Duke declared himſelf, that what he had got with ſo much hazard of his Perſon, and expence of Treaſure won by the Sword, he would now maintain with the ſame Power, he being in Poſſeſſion. But the Ambaſſador being highly diſſatisfied with the Emperors ſlight Anſwer, and indeed affront, retired for *England* without taking leave of the Emperor.

2. *Octob.* 1636. The King by Proclamation further *Adjourneth Michaelmas-Terme.*

'WHereas the Kings Majeſty, out of His Princely care to the 'Health and Safety of His Subjects, and to prevent the 'danger that might ariſe to them by their reſort to *London* or *Weſt-* 'minſter about the occaſion of the Term, in times of Infection of 'the Plague there; did therefore, by His *Proclamation* dated the '6th of *September* laſt, ſignifie His Pleaſure, That part of *Michael-* 'mas-Term next ſhould be Adjourned, according to thoſe Returns 'mentioned in that Proclamation, and then did think fit to Adjourn 'the ſame, as in the Proclamation is expreſſed.

See this at large in the Appendix.

This Year His Majeſty ſending His Writs for *Ship-money* into the In-land Counties, (which were not ſent unto by the firſt Writ (that Writ going only to Maritine Towns;) In this manner was the Diſtribution made.

Diſtribution of Ships to the ſeveral Shires of England *and* Wales, *with their Tonnage, number of Men, and Charge, together with the Sum ſet on the Corporate Towns in each County.*

		Tunns.	*Men.*	*Charge.*
Berkſhire one Ship of		400	160	4000 *l.*
Corporate Towns.	Town of *Windſor*,			100.
	Town of *Wokingham*,			050.
	Burrough of *Newbury*,			120.
	Burrough of *Redding*,			260.
	Burrough of *Abington*,			100.
	Burrough or Town of *Wallingford*,			020.

		Tunns.	*Men.*	*Charge.*
Buckinghamſhire one Ship of		450	180	4500 *l.*
Corporate Towns.	Burrough of *Poiſhe* of *Buckingham*,			70.
	Burrough of *Chippingwickomb*,			50.

An. 1636.

	Tunns.	*Men.*	*Charge.*
Bedfordshire one Ship of	300	120	3000 *l.*
Town of *Bedford*,			140.

	Tunns.	*Men.*	*Charge.*
Briſtol one Ship of	100	040	1000 *l.*

	Tunns.	*Men.*	*Charge.*
Cornwall one Ship of	550	220	5500 *l.*

Corporate Towns.

- Burrough of *Saltaſh*, 40.
- Burrough of *Porthibam*, alias *Weſtlowe*, 18.
- Burrough of *Eaſtlow*, 30.
- Burrough of *Truroe*, 70.
- Burrough of *Penryn*, 48.
- Town of *Penſance*, 28.
- Burrough of *Padſtowe*, 70.
- Burrough of *Liſcard*, 40.
- Burrough of *Leaſtwithall*, 20.
- Burrough of *Cullington*, alias *Kellington*, 20.
- Burrough of *Tregonney*, 33.
- Burrough of *Grandport* and *Creede*, 29.
- Burrough of *Dunhevid*, alias *Launceſton*, 80.
- Town of *Helſton*, 40.
- Burrough of *Boſſenna*, 36.
- Burrough of *Bodmyn*, 83.
- Burrough of *Saint Mawes*, 10.
- Burrough of *Camelford*, 10.

	Tunns.	*Men.*	*Charge.*
Cambridgeſhire one Ship of	350	140	3500 *l.*
Burrough of Cambridge,			100

	Tunns.	*Men.*	*Charge.*
Cumberland & *Weſtmorland* one Ship of	140	056	1400 *l.*

Corporate Towns in *Weſtmorland.*
- Burrough of *Kerkby Kendall*, [illegible]
- Burrough of *Appleby*, 05.

Cumberland.
- City of *Carliſle*, 20.

	Tunns.	*Men.*	*Charge.*
Cheſhire one Ship of	300	120	3000 *l.*
City of *Cheſter*,			260.

	Tunns.	*Men.*	*Charge.*
Devonſhire one Ship of	900	360	9000 *l.*

Corporate

12 Caroli.

Corporate Towns.	City of *Exeter*,	350.
	Burrough of *Clifton Dartmouth*, alias *Hardnes*,	080.
	Burrough of *Totnes*,	120.
	Burrough of *Plimpton*,	035.
	Burrough of *Plymouth*,	190.
	Town and Pariſh of *Tiverton*,	130.
	Town and Manor of *Bedford*,	040.
	Burrough and Pariſh of *Barneſtaple*,	150.
	Burrough and Town of *Torington*,	060.
	Burrough and Town of *Oakehamton*,	030.
	Burrough of *Bradminitch*,	050.
	Burrough of *South Molton*,	045.

	Tunns.	*Men.*	*Charge.*
Darbyſhire one Ship of	350	140	3500 *l.*

Corporate Towns.	Burrough of *Darby*,	175.
	Burrough of *Cheſterfeild*,	050.

	Tunns.	*Men.*	*Charge.*
Dorſetſhire one Ship of	500	200	5000 *l.*

Corporate Towns.	Town and County of *Poole*,	30.
	Burrough of *Dorcheſter*,	45.
	Burrough of *Wareham*,	25.
	Town of *Weymouth*, and *Melcombe-Regis*.	40.
	Burrough of *Brideport cum membris*,	20.
	Burrough of *Corffe*,	40.
	Burrough of *Lyme-Regis*,	40.
	Burrough of *Shaftesbury*,	35.
	Burrough of *Blandfordforum*,	25.

	Tunns.	*Men.*	*Charge.*
Dureſme one Ship of	200	080	200 *l.*
City of *Dureſme* and *Framwellgate*,			150.

	Tunns.	*Men.*	*Charge.*
Eſſex one Ship of	800	320	8000 *l.*

Corporate Towns.	Burrough of *Thaxted*,	040.
	Town and Pariſh of *Walden*,	080.
	Town of *Colcheſter*,	400.
	Burrough of *Malden*,	080.
	Burrough of *Harwike*,	020.

	Tunns.	*Men.*	*Charge.*
Glouceſterſhire one Ship of	550	220	5500 *l.*

Corporate Towns.	City of *Glouceſter* and County thereof,	500.
	Burrough of *Tewksbury*,	060.
	Burrough of *Chipping-Campden*,	020.

An. 1636.

		Tunns.	Men.	Charge.
Hampſhire one Ship of		600	240	6000 *l.*
Corporate Towns.	Burrough of *Portſmouth*,			060.
	Town of *Southampton*,			195.
	City of *Wincheſter*,			190.
	Burrough of *Andover*,			050.
	Town of *Romſey*,			030.
	Town of *Baſingſtoke*,			060.

		Tunns.	Men.	Charge.
Herefordſhire one Ship of		350	140	3500 *l.*
Corporate Towns.	City of *Hereford*,			220.
	Burrough or Town of *Leompſter*,			044.

		Tunns.	Men.	Charge.
Hertfordſhire one Ship of		400	160	4000 *l.*
Corporate Towns.	Burrough of *Hertford*,			055.
	Burrough of St. *Albans*,			120.
	Burrough of *Barkhampſted*,			025.

		Tunns.	Men.	Charge.
Huntingtonſhire one Ship of		400	080	2000 *l.*
Corporate Towns.	Burrough of *Huntington*,			50.
	Burrough of *Godmancheſter*,			80.

	Tunns.	Men.	Charge.
Kent and Cinque-Ports in *Kent* one Ship of	800	320	8000 *l.*

Corporate Towns.	City of *Canterbury*, beſides the Church, and Members thereof,	300.
	Town and Port of *Dover*, and Members thereof,	330.
	Port and Town of *Sandwich*, and Members thereof,	250.
	Town and Port of *Hythe*,	040.
	Town and Port of *New Romney*, and Members,	180.
	Oſwalſton and *Tenderden*,	000.
	Burrough of *Queenborough*,	010.
	Town and Pariſh of *Maidſtone*,	160.
	Cranbrooke,	200.
	Town of *Graveſend* together with *Milton*,	040.
	City of *Rocheſter*,	080.

		Tunns.	Men.	Charge.
Lancaſhire one Ship of		400	160	1000 *l.*

Corporate Towns.	Burrough or Town of *Preſton*,	40.
	Town of *Lancaſter*,	30.
	Town of *Liverpoole*,	25.
	Town of *Wigan*,	50.
	Town of *Clethrowe*,	7 *l.* 10 *s.*
	Town of *Newton*,	7 *l.* 10 *s.*

Leiceſter-

12 Caroli.

	Tunns.	*Men.*	*Charge.*
Leiceſterſhire one Ship of	450	180	4500 *l.*
Burrough of *Leiceſter*,			200.

	Tunns.	*Men.*	*Charge.*
Lincolnſhire one Ship of	800	320	8000 *l.*

Corporate Towns.	City of *Lincoln* and Liberties,	193 *l.* 6 *s.* 8 *d.*
	Burrough of *Boſton*,	70.
	Burrough of great *Grimsby*,	15.
	Town or Burrough of *Stamford*,	60.
	Town or Burrough of *Grantham* with the *Soke*,	200.

	Tunns.	*Men.*	*Charge.*
London two Ships, each of	700	280	14000 *l.*

	Tunns.	*Men.*	*Charge.*
Middleſex one Ship of	500	200	5000 *l.*
City of *Weſtminſter* and Liberties,			1180.

	Tunns.	*Men.*	*Charge.*
Monmouthſhire one Ship of	150	060	1500 *l.*

Corporate Towns.	Burrough of *Monmouth*,	40.
	Burrough of *Newport*,	23 *l.* 9 *s.* 9 *d.*

	Tunns.	*Men.*	*Charge.*
Northamptonſhire one Ship of	600	240	6000 *l.*

Corporate Towns.	Town of *Northampton*,	200.
	Burrough and Pariſh of *Higham-Ferres*,	036.
	City of *Peterborow*,	120.
	Burrough of *Daventry*,	050.
	Burrough of *Brackley*,	050.

	Tunns.	*Men.*	*Charge.*
Nottinghamſhire one Ship of	350	140	3500 *l.*

Corporate Towns.	Town of *Nottingham*,	200.
	Town of *Newark* upon *Trent*,	120.
	Town of *Eaſt Retford*,	030.

	Tunns.	*Men.*	*Charge.*
Northumberlandſhire one Ship of	210	084	2100 *l.*

Corporate Towns.	Town of *Newcaſtle* upon *Tyne*,	700.
	Burrough of *Barwick* upon *Tweed*,	020.
	Town of *Morpeth*,	020.

	Tunns.	*Men.*	*Charge.*
Norfolk one Ship of	780	316	7800 *l.*

Corporate Towns	City of *Norwich*,	500.
	Burrough of *Kings-Lynne*,	300.
	Burrough of Great *Yarmouth*,	220.
	Burrough of *Thetford*,	030.
	Burrough of *Caſtleriſing*,	010.

Oxford-

An. 1636.

	Tunns.	*Men.*	*Charge.*
Oxfordſhire one Ship of	350	140	3500 *l.*

Corporate Towns.
- City of *Oxon*, 100.
- Town of *Burford*, 040.
- Burrough or Town of *Chipingnorton*, 030.
- Town of *Henly* upon *Thames*, 060.
- Burrough of *Woodſtocke*, 020.

	Tunns.	*Men.*	*Charge.*
Rutlandſhire one Ship of	080	032	0800 *l.*

	Tunns.	*Men.*	*Charge.*
Somerſetſhire one Ship of	800	320	8000 *l.*

Corporate Towns.
- Burrough of *Bridgwater*, 70.
- Burrough of *Minhead*, 60.
- City of *Bath*, 70.
- City or Burrough of *Wells*, 60.
- Burrough of *Axbridge*, 30.
- Burrough of *Taunton*, 100.
- Burrough of *Ivelcheſter*, 30.
- Burrough of *Langport Eſtover*, 20.
- Town of *Teovill*, 30.

	Tunns.	*Men.*	*Charge.*
Surrey one Ship of	350	140	3500 *l.*

Corporate Towns.
- Town of *Guilford*, 053.
- Burrough of *Southwarke*, 350.
- Town of *Kingſton* on *Thames*, 088.

	Tunns.	*Men.*	*Charge.*
Suſſex one Ship of	500	200	5000 *l.*

Corporate Towns.
- Town & Port of *Haſtings*, with the Members thereof, 250.
- City of *Chicheſter*, 150.
- Burrough of *Arundel*, 020.
- Burrough of *Shoreham*, 010.

	Tunns.	*Men.*	*Charge.*
Suffolk one Ship of	800	520	8000 *l.*

Corporate Towns.
- Town of *Ipſwich*, 240.
- Burrough of *Orford*,
- Burrough of *Alborough*, 008.
- Town of *Dunwich*, 004.
- Town of *Southwold*, 008.
- Town of *Hadleigh*, 120.
- Town and Burrough of *Eye*, 030.

Staffordſhire

12 *Caroli.*

	Tunns.	*Men.*	*Charge.*
Staffordſhire one Ship of	300	120	3000 *l.*

Corporate Towns.

City of *Litchfeild*,	150.
Burrough of *Stafford*,	030.
Burrough of *Newcaſtle* under Lyne,	024.
Burrough of *Walſall*,	032.

	Tunns.	*Men.*	*Charge.*
Shropſhire one Ship of	450	180	4500 *l.*

Corporate Towns.

Town of *Shrewsbury*,	456 *l.* 10 *s.*
Town of *Bridgenorth* alias *Bruges*,	51 *l* 10 *s.*
Burrough of *Ludlowe*,	102.
Burrough of *Biſhopſcaſtle*,	15 *l.* 10 *s.*
Burrough of *Oſweſtry*,	051.
Town, Burrough, and Liberty of *Wenlock*,	302.

	Tunns.	*Men.*	*Charge.*
Warwickſhire one Ship of	400	160	4000 *l.*

Corporate Towns.

City and County of *Coventry*,	266.
Burrough of *Warwick*,	100.
Town or Burrough of *Brimingham*,	100.
Town of *Sutton-Colefeild*,	080.
Burrough of *Stratford* on *Avon*,	050.

	Tunns.	*Men.*	*Charge.*
Worceſterſhire one Ship of	350	140	3500 *l.*

Corporate Towns.

City of *Worceſter*,	233.
Burrough of *Eveſham*,	074.
Burrough of *Bewdly*,	062.
Burrough of *Drortwich*,	062.
Town or Burrough of *Kidderminſter*,	027.

	Tunns.	*Men.*	*Charge.*
Wiltſhire one Ship of	700	280	7000 *l.*

Corporate Towns.

City of *New Sarum*,	240.
Burrough and Town of *Marleborough*,	100.
Burrough of *Deviſes*,	050.
Burrough of *Chippenham*,	030.
Burrough of *Wilton*,	005.

	Tunns.	*Men.*	*Charge.*
Yorkſhire Two Ships	600	240	12000 *l.*

Corporate

An. 1636.

Corporate Towns.	City of *York* with the *Ansty*,	520.
	Burrough of *Ripon*,	040.
	Burrough of *Doncaster*,	100.
	Burrough or Town of *Pontefract*,	060.
	Burrough of *Richmond*,	050.
	Burrough of *Leedes*,	200.
	Town of *Hendon*,	020.
	Town of *Beverly*,	057.
	Town of *Scarborough*,	030.
	Town of *Kingston* upon *Hull*,	140.

	Tunns.	*Men.*	*Charge.*
North-Wales one Ship of	400	160	4000 *l.*

Corporate Towns.	County of *Denbeigh*,	111768.
	Burrough of *Denbeigh*,	32.
	Town of *Ruchyn*,	194.
	Town of *Holt*,	10.
	County of *Flint*,	13848.
	Town of *Flint*,	16.
	County of *Carnarvan*,	44728.
	Town and Burrough of *Carnarvan*,	10.
	County of *Angleſey*,	448.
	Burrough of *Beaumarris*,	14.
	County of *Montgomery*,	8336.
	Burrough of *Montgomery*,	12.
	County of *Merioneth*,	416.

	Tunns.	*Men.*	*Charge.*
South-Wales one Ship of	500	200	5000 *l.*

	County of *Glamorgan*,	1449.
	Town of *Cardiffe*,	60.
	City of St. *Davids*,	13.
	County of *Carmarthen*,	760.
	Burrough of *Carmarthen*,	50.
	Burrough of *Kidwell*,	44.
	County of *Pembroke*,	71318.
	Burrough of *Pembroke*,	10.
	Town of *Haverfoydweſt*,	65.
	County of *Radnor*,	29010.
	Burrough and Liberty of *New-Radnor*,	06.
	Town of *Reſtinge*,	28.

County

12 *Caroli.*

County of *Brecknock*, ——— 933.
Burrough of *Brecknock*, ——— 54.

County of *Cardigan*, ——— 654.
Town of *Cardigan*, ——— 10.

Nota. The Reader is deſired to pardon any miſtake of the Sums of the *Welch* Counties; for the Copy given to the Printer was ſo obſcurely writ, that perhaps ſome miſtake is therein committed.

18. *Octob.* 1636. The King commands a general *Faſt* to be weekly obſerved throughout the Realm of *England* by reaſon of the Peſtilence.

'THe heavy Judgment of God in his preſent *Viſitation* in the 'Cities of *London* and *Weſtminſter*, and divers other parts 'of the Kingdom at this time with the Peſtilence, ought to move 'Us to acknowledge the immediate Hand of God therein, for the 'ſins of this Land, thereby to afflict and correct his People.

'And His Majeſty having taken into His Religious Care, that in '*common Calamities* the ſpecial means to remove evil is by ſerious 'humiliation to implore the Grace and Favour of that Supreme 'offended Majeſty who can only heal it, hath thought fit to com-'mand a general and publick *Faſt* be held through the whole Realm, 'in ſuch manner as in His Proclamation is directed.

Which ſee more at large in the Appendix.

Inſtructions *from His Sacred Majeſty to the Arch-biſhops and Biſhops of* Scotland.

Charles Rex,

'THat you advert, that the Proclamation for authorizing 'the Service-Book, derogate nothing from Our Royal Pre-'rogative.

'That in the *Kalendar* you keep ſuch *Catholick Saints* as are in the '*Engliſh*; that you peſter it not with too many, but ſuch as you 'inſert of the peculiar Saints of *that Our Kingdom*, that they be of 'the moſt approved; and here to have regard to thoſe of the 'Blood-Royal, and ſuch Holy Biſhops in every See moſt renowned; 'but in no caſe omit St. *George* and *Patrick*.

'That in your Book of Orders, in giving *Orders* to Presbyters, 'you keep the words of the *Engliſh* Book without change, *Receive* '*the Holy-Ghoſt*, &c.

'That you inſert amongſt the Leſſons ordinarily to be read in 'the Service, out of the *Book of Wiſdome* the 1, 2, 3, 4, 5, and 6. 'Chapters, and out of the Book of *Eccleſiaſticus* the 1, 2, 5, 8, 35, 'and 49. Chapters.

'That every Biſhop within his own Family twice a day cauſe 'the Service to be done; and that all Arch-biſhops and Biſhops 'make all Univerſities and Colledges within their Dioceſſes to uſe 'daily twice a-day the Service.

An. 1636.

'That the *Preface* to the Book of Common-Prayer Signed by Our 'Hand, and the *Proclamation* authorizing the ſame, be Printed and 'Inſerted in the Book of Common-Prayer.

Given at *New-Market* the 18*th* day of *October* 1636. and of Our Reign the 11*th*.

Preſent,

The Kings Moſt Excellent Majeſty.

Lord Arch-biſhop of *Canterbury*,
Lord *Keeper*,
Lord *Treaſurer*,
Lord *Privy-Seal*,
Lord Duke *Lenox*,
Lord Marqueſs *Hamilton*,
Lord *Great Chamb.*
Lord *Admiral*,
Lord *Chamberlin*,
Earl of *Dorſet*,
Earl of *Salisbury*,
Earl of *Berks*,
Lord *Goring*,
Mr. *Treaſurer*,
Mr. *Comptroler*,
Mr. Secretary *Windebanck*,
Lord Chief-Juſtice of the *Common-Pleas*.

Sir *William Ruſſel* Treaſurer of the *Navy* his Account for the Year 1636.

THis day was preſented to their Lordſhips the ſeveral Accounts following, the ſame having been by directions from their Lordſhips Examined and Audited by *George Bingly* Eſq; one of His Majeſties Auditors of the Impreſts.

Firſt, the Account of Sir *William Ruſſel* Knight and Baronet, Treaſurer of His Majeſties Navy, as well of what Monies he hath received upon His Majeſties Writs iſſued forth *Anno* 1636. as alſo what he hath iſſued and expended, in ſetting forth to Sea in Warlike manner ſundry of His Majeſties Ships imployed to Sea the Summer following, the Year being the 1637. for the ſafeguard of the Seas, and defence of this Kingdom; the Abſtract whereof followeth.

The Charge.

Arrearages depending upon the laſt Account to be anſwered by ſundry Sheriffs.	05560 *l.* 04 *s.* 07 *d.*
Mony charged upon ſeveral Sheriffs this year 1637. and to have been by them received and paid.	196400 *l.* 00 *s.* 00 *d.*
Monies abated out of ſeveral Bills paid to ſeveral Perſons, and here charged, the full Bills being allowed by this Accountant.	00265 *l.* 10 *s.* 00 *d.*
Received of Sir *John Heydon* Kt. Lieutenant of His Majeſties Ordnance, collected by him out of the Trinity Minorites.	00014 *l.* 07 *s.* 08 *d.*

The total Sum of Ship-money for the Year 1636.

☞ 202240 *l.* 02 *s.* 03 *d.*

The

12 *Caroli*

The Diſcharge.

The Surpluſage of the laſt Account due to this Accountant.	16107 *l.* 06 *s.* 10 *d. qu.*
Preſt Conduct, and Preſting Charges of Souldiers, Mariners, Seafaring-men, and others for His Majeſties Service.	00022 *l.* 14 *s.* 04 *d.*
Emptions and Proviſions of Planks, Timber, and other Materials.	14279 *l.* 16 *s.* 00 *d.*
Carriage by Land and Water of the ſaid Proviſions, and other Materials.	01884 *l.* 04 *s.* 00 *d.*
Litherage and Boat-hire for Officers, Workmen, and others.	00039 *l.* 19 *s.* 09 *d.*
Wages and entertainment of Ship-wrights, Calkers, Labourers, and Sea-men.	18845 *l.* 08 *s.* 09 *d.*
Purveyance of ſundry Proviſions, as Timber, Planks, Tree-Mails, and other Materials.	02932 *l.* 2 *s.* 10 *d. ob.qu.*
Pilotage of ſundry of His Majeſties Ships, and others, imployed in His Majeſties Service.	00277 *l.* 02 *s.* 00 *d.*
Sea-Victuals of Men ſerving in the *Richard* and *Mary* of *London*, a Merchants Ship, imployed in His Majeſties Service.	00954 *l.* 18 *s.* 00 *d.*
Freight of Ships belonging to Merchants, and others imployed as before.	21299 *l.* 10 *s.* 09 *d.*
Travelling-Charges of ſundry Perſons imployed in His Majeſties Service, concerning His Ships ſent to Sea.	01073 *l.* 02 *s.* 02 *d.*
Hire of a Store-houſe near St. *Saviours*-Dock, for fitting and Rigging the *Providence* there.	00042 *l.* 00 *s.* 00 *d.*
Task-work performed by divers and ſundry Perſons, Artificers, Work-men, Labourers, and others.	06299 *l.* 06 *s.* 10 *d.*
Rewards to ſundry Perſons imployed in His Majeſties Service, concerning the Ships ſent to Sea.	00781 *l.* 07 *s. ob.*
Sea-wages of the L. General Admiral, Vice-Admiral, Captains, Maſters of Ships, Lieutenants, Souldiers, Sea-men, and others.	20008 *l.* 06 *s.* 04 *d.*
Intereſt-Money paid for Monies advanced by Sir *Paul Pindar*, and others, for Six Months Payment of Sea-men, diſcharged by Warrants of the Lords of the Privy-Council, Lord Treaſurer, Lord *Cottington*.	01010 *l.* 00 *s.* 00 *d.*
Monies Impreſt upon Account, *viz.* of Sir *John Heydon* Knight, Lieutenant of the Ordnance 20 *m.* 9 *s.* 11 *d.* to *John Crane* Eſq; Surveyor of the Marine Victuals 30 *m.* 15 *l.* 11 *s.* 6. *d.* and to ſundry other Perſons for the Service of the Ships 580 *l.* 16. *s.* 2 *d.* in all.	56511 *l.* 10 *s.* 07 *d.*

An. 1636. Allowance of 3 *d.* in the Pound for all the ſaid Payments, except the Monies paid to the ſaid Lieutenant of the Ordnance, Surveyor of the Marine Victuals. 01532 *l.* 18 *s.* 06 *d.*

196166 *l* 6 *s.* 5 *d. ob. qu.*

And ſo there remains due to His Majeſty the Sum of 06073 *l.* 15 *s.* 09 *d. ob.*

Arearages to be anſwered by ſundry Sheriffs.

In the Year ended the laſt *December* 1635. 01023 *l.* 11 *s.* 03 *d.*
In the Year ending the laſt *December* 1636. 04536 *l.* 12 *s.* 04 *d.*
In the Year ended the laſt *December* 1637. 06907 *l.* 06 *s.* 04 *d.*

12467 *l.* 10 *s.* 11 *d.*

And then there is a ſurpluſage due to this Accountant. 06293 *l.* 15 *s.* 1 *d. ob. qu.*

Next the Account of *John Crane* Eſq; Surveyor-general of the Victuals for the Marine Cauſes, for victualling of His Majeſties Ships imployed in the Year 1637. as aforeſaid for the ſafeguard of the Seas, and defence of the Realm; an Abſtract whereof is as followeth.

The Charge.

Monies reſpectuated in the foot of the laſt Account for Cask and Bisket-Baggs, which ſundry Purſers and Cooks ought to have returned for His Majeſties Service, but converted them for their own private benefit. 00543 *l.* 07 *s.* 04 *d.*

Monies depending upon divers Purſers for remains of Victuals, at the return of His Majeſties Ships from Sea in the Year 1636.

Remains of Victuals the Year 1637. 00930 *l.* 12 *s.* 06 *d.*

And received of Sir *William Ruſſel* Knight and Baronet, Treaſurer of His Majeſties Navy, 30905 *l.* 11 *s.* 06 *d.*

Sum-total of the Charge 32895 *l.* 15 *s.* 9 *d.*

The Diſcharge.

The Surpluſage of the laſt Account due to this Accountant. 06412 *l.* 03 *s.* 08 *d.*

Harbrough Victualling of ſeveral Men ſerving in divers of His Majeſties Ships this Year 1637. 03115 *l.* 15 *s.* 00 *d.*

Victualling

12 *Caroli*

Victualling of four of His Majeſties Ships deſigned for *Salley*, with increaſe of price of Beer, and Port-Beer, and Bisket for the Admiral. } 4907 *l.* 08 *s.* 00 *d.*

Other extraordinary allowances for Cask, Bisket-Bags, *&c.* } 751 *l.* 07 *s.* 01 *d. ob.*

Sum total of the diſcharge, 34007 *l.* 05 *s.* 06 *d. ob.*

And ſo the Accountant is in ſurpluſage 1111 *l.* 09 *s.* 09 *d. ob.*

Unto which is further added for monies depending on divers Purſers and Cooks of ſundry of His Majeſties Ships for remains of Victuals, Cask, Bisket and Baggs which they ought to have returned for His Majeſties ſervice, but converted them to their private benefit. } 2300 *l.* 09 *s.* 10 *d.*

And then he is in ſurpluſage 2224 *l.* 19 *s.* 07 *d. ob.*

Their Lordſhips having conſidered and approved of the ſaid Accounts, did this day Sign the ſame, and Order that one of each of the ſaid Officers Accounts being ſigned by their Lordſhips, ſhould be forthwith ſent into the Pipe-Office, one other of each ſhould remain with His Majeſties ſaid Auditor, and a third be delivered to each of the ſaid Accountants reſpectively. And that an Abſtract or Brief-ſtate of each Account ſhould be entred in the Council-Book. And as concerning the ſurpluſage due to each of the ſaid Accountants (as by their ſaid ſeveral Accounts appeareth) It was Ordered that the ſame ſhould be allowed by the Auditor upon their next Accounts reſpectively, for the *Year* 1638. whereof as well the Auditor as each of the ſaid Officers Accountants were to take notice and to ſee the ſame duly performed accordingly.

The ſaid ſeveral Accounts were this laſt of *May* 1640. Signed by

Lord Arch-Biſhop of *Canterbury*.
Lord *Keeper*.
Lord *Treaſurer*.
Lord *Privy-Seal*.
Lord *Chamberlain*.
Earl of *Dorſet*.
Earl of *Salisbury*.
Lord *Keeper*.
Mr. *Comptroler*.
Mr. Secretary *Windebanck*.
Lord Chief Juſtice *Littleton*.

A Warrant to Sir William Ruſſell *Knight and Baronet, and* Henry Vane *Eſquire, Treaſurers of His Majeſties Navy.* *May ult.* 1640.

WHereas by Our Letters of Inſtructions of the firſt of *December* laſt, ſent with His Majeſties Writs to the Sheriffs of the ſeveral Counties in the Kingdom, it is expreſſed, that there ſhould be an allowance of ſix-pence in the pound given to every Sheriff,

An. 1636. Sheriff, when the full ſum charged on his County ſhould be paid in to you the Treaſurers of His Majeſties Navy: Theſe ſhall be therefore to Will and Require you to make ſuch an allowance of ſix-pence in the pound to all High-Sheriffs of Counties, as to Majors or Chief Officers of Corporations within the ſame, that either have already paid, or ſhall hereafter pay in the full ſum, charged upon every of them reſpectively for the ſaid ſervice, taking ſeveral receipts for the ſame, under the hands of the ſaid Sheriffs and head Officers, or ſuch as they ſhall imploy, for which you are to have allowance in your Account; for which this ſhall be a ſufficient Diſcharge and Warrant, as well to you as to the Principal Officers and Commiſſioners of the Navy, for paſſing thoſe receipts in your Accounts, and to His Majeſties Auditor to allow thereof. *Dat. ultimo Maii* 1640.

In Camerâ Stellat' coram Concilio ibidem viceſimo quinto die Januarij Anno Decimo Caroli Regis.

Tranſporting of Fullers-Earth.

THis day was brought unto this Bar, *John Ray* of *London* Merchant, againſt whom Sir *John Banks* Knight, His Majeſties Attorney-General did inform *Ore tenus* on his Highneſs behalf, that the ſaid *Ray* had committed ſeveral great offences worthy the Cenſure of this Court, which would appear by ſeveral examinations taken of him, whereunto his Name was ſubſcribed, which His Majeſtie's ſaid Attorney prayed might be ſhewed unto him the ſaid *Ray*, and read in the Court; and that thereupon the Court would impoſe ſuch a Cenſure on him for his ſaid Offences, as their Lordſhips in their great wiſdoms ſhould hold fit. Whereupon the ſaid Delinquents, ſeveral examinations were ſhewed, being by him acknowledged, they were openly read in the Court, and were as followeth: The Examinant having ſhewed unto him a Letter to my loving Friend Mr. *Henry Baldroe* Merchant at Mr. *James Deckwers* houſe in *Rotterdam*, beginning thus; *Quinborow* the 4*th* 1630. Mr. *Baldroe according to your Letters*, &c. and ending thus, *and ſo I reſt your loving Friend*, and ſubſcribed *John Ray*. He ſaith that it is his hand-writing; being demanded what the Commoditie was whereof in the Letter is mentioned; he ſaith the Commodities were Fullers-Earth, for he ſaith that near about that time, he ſent from *Rocheſter* into *Holland* threeſcore and ſixteen loads of Fullers-Earth to *Henry Baldroe* a *Norfolk*-man, that reſides at *Rotterdam*. He ſayeth alſo that the Fullers-Earth was bought by a man of *Leyden* in *Holland* who paid the Examinant for the Fullers-Earth after the rate for four *Gilders*; he ſaith that he bought the Fullers-Earth of one *Richard Rods* of *Maidſtone* at the rate of ſix Shillings the load, beſides twelve-pence to *Litherman*.

This Fullers-Earth was loaden in the Ship called the *Hope for Grace*, whereof *John Coldee* was Maſter from *Rocheſter*. Being demanded whether thoſe Goods were entred in the Cuſtom-Houſe, he ſaith that they were entred for the Port of *Lynn*, as he remembreth, and a Port-coquet was made accordingly. Being demanded who were bound for the diſcharge at *Lynn*, and for bringing a Certificate,

12 Caroli.

Certificate; ſaith that himſelf and the Maſter were bound, but what Certificate was procured he knows not, nor from whence. And there was one Cuſtom paid for the Fullers-Earth, but aſſured he is, that it was landed in *Holland*. He ſaith that he ſhipped this Earth within ſeven or eight days, before the birth of Prince *Charles*, His Majeſtie's Son; and he remembreth it better, for that while he was at *Rocheſter*, Bonefires in token of joy of his Birth were made; and it was ſhortly after His Majeſties Proclamation, inhibiting tranſportation of Wooll and Fullers-Earth. But he ſaith he cannot tell whether he had notice of the Proclamation or not? But he well knew that he intended to take benefit of His Majeſties gracious Pardon granted forth about that time. He alſo ſaith that ſince that time he hath not ſhipped any Fullers-Earth, but about ſix years paſt he ſhipped over ſome other Fullers-Earth, all which matters being contained in his firſt examination, he confeſſeth in his further examination taken by His Majeſties now Attorney-General as true: and alſo ſaith, that *Robert Coſens* of *Horſely-down* about a year ſince tranſported four or five Barques loading of Fullers-Earth to *Skeedam* in *Holland*, and there ſold it; and that a Plumber in *Tower-ſtreet*, and a Plumber in *Rocheſter*, whoſe names he knows not, were ſecret at the Cuſtom-Houſe, that the ſaid Fullers-Earth ſhould not be tranſported. Upon grave and deliberate conſideration whereof, the Delinquent being now at the Bar, who was demanded by their Lordſhips what Anſwer he could make thereunto for his defence or extenuation of his Offences; the whole Court was of opinion, and did declare, that the ſaid Delinquent *John Ray* had committed (as appears by his own examination) two ſeveral offences both of great conſequence and of a high nature, in tranſporting of Fullers-Earth out of this Kingdom, contrary to His Majeſties Proclamation, whereby he did what in him lay to rob the Kingdom of the Trade and Manufacture of making Cloth, which is the ſupport and livelihood of a very great number of the Poor ſort of People of this Realm, and deceiving His Majeſty of the Cuſtoms by colour of a Port-Coquot, which he gained to colour his deceit, and to carry away the ſaid Fullers-Earth with ſecurity; both which Offences as they are of a high nature, ſo in their Lordſhips Opinions they deſerved a very ſharp, ſevere and exemplary puniſhment: and therefore the whole Court, and all the Honourable Preſence there ſitting, have with an unanimous conſent, thought fit, ordered, adjudged and decreed that the ſaid *John Ray*, ſhall for his Offences aforeſaid, ſtand and be committed to the Priſon of the *Fleet*, there to remain during His Majeſties pleaſure; and that if His Majeſty ſhall at any time hereafter be graciouſly pleaſed to enlarge the ſaid Defendant, it is then Ordered and Decreed, that before ſuch his enlargement, he ſhall become bound with good Sureties for his good behaviour hereafter: and it is withal Ordered and Decreed, that the ſaid *John Ray* ſhall pay a Fine of 2000 *l*, to His Majeſty's uſe, and ſhall alſo be ſet in the Pillory, with a Paper on his Head, declaring the nature of his Offences, to the end others may by his Example be deterred from daring to commit the like Offences hereafter.

The Sentence of the Court.

In

An. 1635. *Feb.* 7. Hill. Term.

In Camera Sellat' coram Concilio ibidem Decimo Septimo die Februarii, Anno Domini Caroli Regis 12.

Defendants ſentenced in Star-Chamber for Tranſporting of Gold.

THis day came to be heard the Matter of Complaint exhibited into this Court by Sir *John Bankes* Knight, His Majeſties Attorney-General, Plaintiff againſt *Henry Fluter*, *Henry Sweeting*, *Peter Hern*, *John Terry*, *Arnold Brames*, *Iſaack Gold*, *Randal Crew*, *Francis Brogden*, *Luke Lee*, *Timothy Eman*, *John Perryn* and *Edward Vaghan*, for *tranſporting of Gold and Silver* out of this Kingdom into Foreign parts, and for culling out the weightieſt Mony, and for melting down His Majeſties Coyn into *Bullion*, and giving above the prices of His Majeſties Mint for Gold and Silver (as by the ſaid Information more at large, it doth and may appear.) In the Opening and Proſecution of which Cauſe, His Majeſties ſaid Attorney informed the Court, that in purſuance of their Lordſhips Order at Council-Board, he did before Iſſue joyned in this Cauſe, enter a Rule, that he would not at this time proceed in the Examination of any Witneſſes, touching the buying of Gold and Silver above the price appointed to be given at His Majeſties Mint, but reſerve that part of the Cauſe to be Examined, Heard and Conſidered of hereafter, if their Lordſhips ſhould think fit. Thereunto their Lordſhips again conſented, holding it moſt meet ſo to be done. And upon full and deliberate hearing of the other matters complained of againſt all the before-named Defendants, except *Francis Brogden*, whom His Majeſties ſaid Attorney did not now proceed againſt by direction of this Court, in reſpect he was gone beyond the Seas before his Cauſe was ſet down to be heard, and was not yet returned, as was verified by Oath. It appeared that notwithſtanding His Majeſty out of His Princely Care for the good of His Subjects, foreſeeing the dangerous conſequences, which would enſue the tranſportation of Gold and Silver out of this Kingdom, did by His Proclamation and Articles *Viceſſimo quinto Maij tertio Caroli*, Prohibit and Command, that no Perſon ſhould then after without His Majeſties Licenſe, Tranſport, Carry and Convey out of this Realm any Gold or Silver, either in Coin, Plate, Veſſels, Jewels, Gold-Smiths-work, Bullion or other Maſs, or otherwiſe whatſoever. And that no Perſon ſhould Aid, Aſſiſt, Counſel, or any ways Partake, or Conſent with any other Perſon, purpoſing or attempting to Tranſport, Carry or Convey out of this Realm any Gold or Silver, in any Species or Kind as aforeſaid, either by gathering or getting together ſuch Gold or Silver, or by packing up the ſame fit for Tranſportation, or Conveying the ſame to or towards any Port, Haven, or other place of Exportation, or by any other way or colour. And that no Gold-Smith, Finer, or Parter, or other Perſon whatſoever, of what Miſtery, Trade, or quality ſoever, ſhould melt, or cauſe to be molten any Gold or Silver Coins, which were then, or hereafter ſhould be the Currant Monies of any His Majeſties Realms or Dominions, either to make Plate, Veſſel, or for any other Manufacture or Uſe, or ſhould cull or ſort from the reſt any the weightier Monies, to the intent to convey the ſame out of this Realm, or

1627.

to

12 *Caroli.*

to otherwiſe alter it from Coin, the ſame being alſo contrary to divers Laws and other Proclamations: yet the ſaid Defendant *Henry Sweeting*, between the month of *April* 1629. and the month of *June undecimo Caroli*, did ſend the ſum of fifteen hundred pounds to *Dover* by a Foot-Poſt, and willed him to ſend the ſame over to *Callis*, to one *John Lovell*, a Merchant there; which he did according to the ſaid *Sweeting* his directions. And the ſaid Defendant *Peter Hern*, within the ſpace of two or three years laſt paſt, ſent by the ſaid Foot-Poſt to *Dover* about 3000 *l.* to one *Nathaniel Pringall*, who as himſelf confeſſed, ſent the ſame over to *Callis* in *France*; and the ſaid *Hern*, (as himſelf alſo confeſſed to one of the Witneſſes (whoſe Teſtimony was now read at another time) ſent 500 *l.* to *Callis* to one *Iſaac Lamews*. And the ſaid Defendant *John Terry* ſent up one *Rainger* a Foot-Poſt 200 *l.* to one *John Wallopp* of *Dover*, who at that time ſhewed the ſaid *Rainger* a Letter from the ſaid *Terry*, to him the ſaid *Wallopp*, to ſend the ſaid two hundred pounds to one *Peter Pool* at *Callis*, which the ſaid *Wallopp* did, and accordingly as he afterwards told the ſaid *Rainger* and the ſaid *Terry* about three or four years ſince, ſent one hundred and fifteen pound more to the ſaid *Wallopp* to *Dover*, who ſent the ſame to *Callis* to the ſaid *Peter Pool*, as he was directed. And the ſaid *Arnold Brames* (as himſelf confeſſeth) hath within ſeven years laſt paſt ſent divers quantities of Foreign Coin and Bullion into *France*, *Flanders*, and other Foreign Parts to coyn in Baggs, and the Bullion which came from *Spain*. It likewiſe plainly appeared to this Honourable Court, the Defendant *Timothy Eman*'s conſtant courſe, from the *year* of our Lord God 1621, until the *year* of 1631, was to receive Merchants mony, and then to imploy his Servants to Cull and Sort out by the Ballance, the heavieſt Shillings and Sixpences, and afterward ſold them by the Ounce, and thereby made three pound in the hundred profit, it being uſual to find 14, 15, 16 *l.* or more heavy in 100 *l.* and in the year 1628, 1629, 1630, 1631, the ſaid Defendant cauſed his Servants to cull 500000 *l.* a-year, which did produce 7, or 8000 *l.* yearly heavy mony, which in part he melted down into Ingots, and ſo ſold them, and the greateſt *part* he ſold unmelted to the value of 20000 *l.* and the ſaid Defendant was alſo furniſhed by divers ſeveral perſons with heavy cull'd Engliſh-mony, to whom he gave ſometimes two Shillings and ſometimes three Shillings in a hundred pound to have the Culling thereof; and the ſaid Defendant *Eman*, from the *year* 1621, or 1622, to the *year* 1626, did melt down 5000 *l.* and from 1626 to the *year* 1631 he did melt down 15000 *l.* and had profit out of the ſaid mony ſo melted down amounting to above 1000 *l.* and the Defendant *Henry Futter*, did buy and gather together light Gold, and did furniſh one *Violet* with 1000 *l.* of light Gold, beyond the Allowance of great Rates, knowing he either bought it either to tranſport himſelf, or to furniſh Tranſporters therewithal. And the Defendant *John Perryn* (as himſelf confeſſeth) and is proved againſt him, bought certain quantities of heavy Engliſh Coyn, and melted the ſame into Bullion.

Upon grave and deliberate conſideration of all which matters, the Court did declare and adjudge the ſaid Defendants, *Henry Sweeting*, *Peter Hern* and *John Terry* guilty of Tranſportation of

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Engliſh Cold, and the Defendant *Arnold Brames* of Tranſportation of Foreign Coin and Bullion, into ſuch ſeveral parts beyond the Seas, the Defendant *Timothy Eman* of Culling out and Melting down the heavy Coin of this Kingdom for his own particular End and private Gain, the Defendant *Henry Futter* of buying light Gold, and ſelling the ſame again, to furniſh Tranſporters, and the Defendant *John Perryn* of melting down His Majeſties heavy Coin. All which Offences their Lordſhips held to be of a very great and dangerous conſequence, and very prejudicial to the good and floriſhing eſtate of this Kingdom, and therefore to deſerve a ſharp and ſevere Cenſure. In reſpect whereof their Lordſhips, having well and gravely weighed the nature and quality of each particular mans Offence, have Ordered, Adjudged and Decreed, that the ſaid Defendants, *Henry Futter*, *Henry Sweeting*, *Peter Hern*, *John Terry*, *Arnold Brames*, *Timothy Eman* and *John Perryn*, ſhall all of them ſtand to be committed to the Priſon of the *Fleet*, and pay for their ſeveral Fines to His Majeſty's uſe as followeth; (*viz.*) *Peter Hern*, *John Terry* and *Timothy Eman* 2000 *l.* a piece, *Arnold Brames* 1000 *l.* *Henry Futter*, and *Henry Sweeting* 500 *l.* a peice, and *John Perryn* 100 *l.* And as touching the Defendant *Iſaac Gould*, *Randal Crew*, and *Luke Lee*, albeit it did appear that they being *Eaſt*-Country Merchants, had tranſported out of the Kingdom, and carried over in their Ships ſeveral ſmall ſums and quantities of *Rix-Dollers*, which the Court holds and declares to be an offence puniſhable in that Court, if it be done without His Majeſties Licenſe: Yet in reſpect it did not clearly appear that they had Tranſported any great quantities, and for that the neceſſity of the Trade requires the Exportation and carrying with them of ſome monies, to defray Cuſtoms and other neceſſary occaſions in their Voyages to *Norway*; the Court did forbear at this time to cenſure them, and did diſmiſs and diſcharge them of, and from any other attendance thereabouts hereafter. And for the Defendant *Edward Vaughan* it was Ordered he be diſmiſſed and diſcharged of, and from any further Attendance there-abouts hereafter.

Thomas *Lord* Coventry, *Lord Keeper of the Great-Seal of* England, *his Speech or Charge, which he delivered by Command from the King, to all the Judges of* England, *being in the Court of* Star-Chamber 14 die Februarii Anno Regni Regis Caroli xii Annoq; Domini 1636. *Together with the Kings Letters, Caſes, and the Judges Opinions touching the* Ship-mony.

My Lords,

I Have but one particular more; and that of great Importance, wherof by ſpecial Direction and Commandment from His Majeſty, I am to ſpeak unto you at this time.

All of you are the Witneſſes of His Majeſties Proceedings, though the Candour, and clearneſs of His own Heart exceedeth your Teſtimony,

Teſtimony, and your Teſtimony is not only fit to be declared in this place, but in all the places of the Realm. His Majeſty hath now the third time ſent forth *Writs* to require the aid of his Subjects, for the guard of the Dominion of the Seas, and ſafety of the Kingdom; this His Majeſty did upon great deliberation and advice, and upon Important and Weighty Reaſons. In the firſt year, when the *Writs* were directed to the Ports and the Maritime places, they received little or no oppoſition; but in the ſecond year, when they went generally thoughout the Kingdom (though by moſt well obeyed) have been refuſed by ſome, not only in ſome Inland ſhires, but in ſome of the Maritime places; and Actions have been brought againſt ſome that have been imployed about the Execution of thoſe *Writs*. I ſuppoſe no man will expect *Arcana Regni*, the private Reaſons of a Prince, ſhould either upon this, or other occaſions, be made more publick; but ſo many reaſons as were fit to be opened, were formerly declared by me in this place to you the Judges of this Realm. 12 *Caroli.*

The firſt was, That the whole Kingdom is concerned in point of ſafety: for admitting there were no other Council, or Attempt againſt us, but only to interrupt us in the Dominion of the Sea, our moſt ſecure and ſafe defence, better than either Caſtle or Forts, which if it be Commanded by others, it lays us open to much peril and danger.

Secondly, The whole Kingdom is concerned in point of Honour; for it is one of the moſt Antient and Honourable Rights of the Crown of *England*, even the Dominion of the Sea; and all Records do ſhow, how the Kings and People of *England* have ever been careful, that this Honour ſhould never periſh; and certainly the whole Kingdom is concerned in point of Trade, and Profit; for the Traffique doth not only inrich the Maritime places, but the Inland Towns; and if Trading fail, the Inland places will find it in the fall of the Prices of Wooll, Lead, and Staple Commodities: this, experience ſhoweth daily, when upon every ſtop of the Vent of Cloth, there cometh ſuch outcries by the Weaver, Fuller, Spinner, and Wooll-growers themſelves; and the Authority of the Laws ſheweth the ſame in the Book of Aſſize 43, which your Lordſhips know better than I. It appeareth that certain men went into the Country and caſt out a fame, that for that year no Wooll ſhould be tranſported beyond the Seas; preſently upon this the price of Wooll fell, and thoſe men were called into queſtion, and adjudged in a Fine for it. Now if a Rumor did ſo much abate the Trade in the heart of the Kingdom, what would the loſs of the Dominion of the Sea do, which expoſeth Us, and all our Trade to the mercy of our Neighbours, therefore ſithence the Realm, and the whole Realm is concerned in point of Honour, Safety and Profit, what Reaſon, but all ſhould contribute to the maintenance of it. This, or to this effect I did formerly declare to you (the Judges) by His Majeſties Commandment, and His Majeſty received ſatisfaction in that you made a full Declaration thereof in your Circuits; and this I may ſay for the moſt part, the Subjects have ſhewed themſelves moſt dutiful and obedient in this ſervice of His Majeſties, and this year the ſum impoſed on the County of *York* being 12000 *l.* is brought in already by the Sheriff, and ſo is

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moſt part of *Lancaſhire*, and other Shires; but when His Majeſty heard of ſome refuſals, though he had cauſe to be ſenſible of it, yet was far from being tranſported with Paſſion, but thought good to reſort to the adviſe of you His Judges, who are ſworn to give him faithful and true Counſel, in that which appertaineth to the Law, and this His Majeſty for the direction of His own courſe, as for the ſatisfaction of His Subjects, required you to deliver your Opinions herein, to which you returned an Anſwer under your own hands; and becauſe the Commandment which you received from the King is expreſſed in a Princely Letter under his own Signature, I ſhall not take upon me to repeat it; you ſhall hear it read; which being delivered by my Lord Keeper, to one of the Clerks in Court, was read to this or the like effect.

Carolus Rex.

Truſty and well-beloved, We greet you well, taking into Our Princely Conſideration, that the Honour and Safety of this Our Realm of England, *(the preſervation whereof is only entruſted in our Care) was, and is now more nearly concerned than in former times, as well by divers Counſels and attempt to take from us the Dominion of the Sea, of which we are the ſole Lords, and rightful Owners, the loſs whereof would be of great danger and Peril to this Kingdom, and other our Dominions; We for the avoiding of theſe and the like dangers, well weighing with Our ſelves, that where the good, and ſafety of the Kingdom in general is concerned, and the whole Kingdom in danger, there the Charge and Defence ought to be borne by all the Realm in General; did for prevention of ſo publick a Miſchief, reſolve with Our Selves to have a Royal Navy provided, that might be of force, and power, with Almighty Gods Bleſſing and Aſſiſtance, to protect and defend this our Realm, and Our Subjects therein, from all ſuch Perills, and Dangers; and for that purpoſe we iſſued forth Writs under Our Great-Seal of* England, *directed to all our Sheriffs, of all our ſeveral Counties of* England *and* Wales, *Commanding thereby all Our ſaid Subjects in every City, Town and Village, to provide ſuch a number of Ships well furniſhed, as might ſerve for this Our Royal Purpoſe, and which might be done with the greateſt equality that could be, in performance whereof, though generally throughout all the Counties of this Our Realm, We have found in Our Subjects great Chearfulneſs and Alacrity, which we graciouſly interpret as a Teſtimony as well of their dutiful Affections to Us and Our Service, as of the reſpect they have to the Publick, which well-becometh every good Subject. Nevertheleſs, finding that ſome few haply out of ignorance what the Laws and Cuſtoms of this Our Realm are, or out of a deſire to be eaſed, and freed in their Particulars (how general ſoever the charge ought to be) have not yet paid and contributed the ſeveral Rates and Aſſeſſments that were ſet upon them; and foreſeeing in Our Princely Wiſdom, that from hence divers Suits and Actions are not unlikely to be Commenced and Proſecuted in Our ſeveral Courts at* Weſtminſter: *We deſirous to avoid ſuch inconvenience, and out of Our Princely Love, and Affection to all Our People, being willing to prevent ſuch errors as any of Our Loving Subjects may happen to run into, have thought fit in a Caſe of this Nature to adviſe with you Our Judges, who we doubt not are all well ſtudied and informed in the Right of Our Soveraignty; and becauſe the*

Trials

12 *Caroli.*

Trials of Our ſeveral Courts, by the formality of Pleading, will require a long protraction, We have thought expedient by this Our Letter directed to you all to require your Judgments in this Caſe, as it is ſet down in the incloſed Paper, which will not only gain time, but alſo be of more Authority to over-rule any prejudicate opinions of others in the Point.

Given under Our Signet at Our Court at *Whitehall* the ſecond day of *February*, the twelfth Year of Our Reign 1636.

This being thus read, the Lord-Keeper commanded the Caſe incloſed to be read, being as followeth.

Carolus Rex,

'WHen the good and ſafety of the Kingdom in general is concerned, and the whole Kingdom in danger, whether 'may not the King, by Writ under the Great Seal of *England*, command all the Subjects of Our Kingdom at their charge to provide 'and furniſh ſuch a number of Ships, with Men, Victuals, and 'Munition, and for ſuch time as we ſhall think fit for the defence 'and ſafeguard of the Kingdom from ſuch danger and peril, and by 'Law compel the doing thereof, in caſe of refuſal or refractorineſs? 'and whether in ſuch a caſe is not the King the ſole Judge both 'of the danger, and when, and how the ſame is to be prevented and 'avoided.

May it pleaſe your Moſt Excellent Majeſty,

The Judges Opinions to the Caſe.

WE have, according to Your Majeſties Command, every Man by himſelf, and all of us together taken into ſerious Conſideration the Caſe and Queſtion Signed by Your Majeſty, and incloſed in Your Royal Letter; and we are of opinion, that when the good and ſafety of the Kingdom in general is concerned, and the Kingdom in danger, Your Majeſty may, by Writ under the Great Seal of *England*, command all Your Subjects of this Your Kingdom, at their Charge to provide and furniſh ſuch a number of Ships, with Men, Victuals, and Munition, and for ſuch time as Your Majeſty ſhall think fit for the defence and ſafeguard of this Kingdom from ſuch danger and peril: and that by Law Your Majeſty may compel the doing thereof in caſe of refuſal, or refractorineſs: and we are alſo of opinion, that in ſuch caſe Your Majeſty is the ſole Judge both of the danger, and when, and how the ſame is to be prevented and avoided.

John Bramſton,	*George Crooke,*
John Finch,	*Thomas Trevor,*
Humphry Devenport,	*George Vernon,*
John Denham,	*Francis Crawley,*
Richard Hutton,	*Robert Berkley,*
William Jones,	*Richard Weſton.*

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The ſaid Letter of the Kings, the Caſe and Judges Opinions thereupon, being then diſtinctly read in Court in the preſence of all the Judges, except Judge *Crooke*, who at that time was indiſpoſed as to his health, the reading of which ſo publickly ſeemed a ſurprize to ſome of the Judges preſent; the Lord Keeper proceeded and ſpake as followeth.

My Lords,

Lord Keeper. 'THis being the uniform Reſolution of all the Judges Opinions with one Voice, and ſet under their own Hands: I 'ſay this being ſo reſolved as they do here expreſs upon every Mans 'particular ſtudying of the Caſe, and upon a general Conference 'among themſelves, it is of very great Authority; for the very 'Lives and Lands of the Kings Subjects are to be determined by the 'Judgment of theſe Reverend Judges, much more a Caſe of this 'nature, which God knoweth cannot be burdenſome to any, but is 'of ſingular uſe and conſequence, and for the ſafety of the whole 'Kingdom.

'The Commandment from His Majeſty is, That I ſhould publiſh 'this your Opinion in this place, and give order that it ſhould be 'entred in this Court, in the High Court of *Chancery*, in the Courts 'of *Kings-Bench*, *Common-Pleas*, and *Exchequer*; for this is a thing 'not fit to be kept in a corner: And His further Command is, That 'you the Judges do declare and publiſh this general Reſolution of 'all the Judges of *England* throughout all Parts of the Kingdom, 'that all Men may take notice thereof, and that thoſe His Subjects 'which have been in any Error, may Inform themſelves, or be Re-'formed.

'You have great cauſe to declare it with Joy, and you can 'hardly do it with Honour enough to the King, that in ſo high a 'Point of His Sovereignty he hath been pleaſed to diſcend, and to 'communicate with you His Judges; which ſheweth, that Ju-'ſtice and Sovereignty in His Majeſty doth kiſs each other.

'His Pleaſure further being, That you let all know, that it is 'not His Purpoſe by this Reſolution to ſtop or check the Actions or 'Suits which any have brought, or ſhall bring concerning this; 'for it is His Majeſties Command, That all ſuch as proceed in an 'Action about the ſame, ſhall have equal and meet Juſtice, and 'that they be ſuffered to proceed in Courſe of Law, ſo as you call 'the Kings Learned Council unto their Proceedings, that they 'may not be ſurprized.

'Now, my Lords, I have little more to ſay, but this I am ſure of, 'that if any contrary opinion ſhall yet remain among Men, it muſt 'proceed from thoſe that are Sons of the Law, or from ſome not 'towards the Law. Of the latter I will ſay, (*Felices demum eſſent 'artes ſi de illis ſolum judicarent Artifices.*) And as to the former, 'you the Judges of the Realm, are, and ever have been accounted 'the Fathers of the Law, then will it ill-become the Son to diſpute 'againſt, or take upon him to be wiſer than the Father. Having 'thus delivered unto you, that which I received in Commandment 'from His Majeſty; as His Majeſty doth, ſo do I, leave it to your 'Judgments.

Here

12 *Caroli.*

Here followeth the firſt part of the Lord Keepers Speech to all the ſaid Judges this day, which was Poſtponed, becauſe that which is before-mentioned was pertinent to the great Queſtion in hand concerning Ship-money; but his Lordſhip in the beginning declared to the ſaid Judges what he had in command from His Majeſty concerning Matters relating to their reſpective Circuits, and ſpake to this purpoſe.

My Lords the Judges,

THe Term being now at an end, and the Aſſizes at hand, His Majeſty hath commanded, that according to the Cuſtom in former times, ſo now you ſhould in this place receive ſome directions for the execution of Juſtice in all Parts of the Kingdom whereto you reſort. This, (as it may juſtly be) is a great comfort to His Majeſties Subjects to ſee His Majeſties care herein, which as it is a Teſtimony of their own Happineſs in receiving Juſtice from the King Himſelf the Fountain of Juſtice, ſo it may as juſtly add ſtrength and encouragement to you when you go your Circuits, not only to be armed with your own Authority by Commiſſion, but with your Princes Inſtruction. In the doing of Juſtice you will find things of ſeveral natures and degrees. In ſome Pleas before you Commutative Juſtice beareth ſway, as in that which is *Meum & Tuum*: In others Diſtributive Juſtice, as in *Præmium & Pœnam*; ſome concern one, and a few others concern the multitude, others concern the King and all the Kings People. In ſome Pleas things are drawn a-fore you that are *ad Nocumentum* of this and that particular Town: Some *ad Nocumentum totius Regni*: Some things are drawn a-fore you that are *Contra Pacem Regis*, and others *Contra Coronam & Dignitatem Regis*. And in this variety of buſineſs, that as there are many of a leſſer and lower degree, yet not to be omitted; ſo you have *Graviora Legis*, upon which you are to pitch your Mark, *hæc oportet fieri illa non omittere*. In that Juſtice which you are to do between Party and Party, His Majeſty doth require you, as in all His Courts here, ſo in your Circuits you adminiſter impartial Juſtice, and redreſs vexatious and wrangling Suits, not worthy the Dignity of your own Perſons, and the Court where you ſit; for theſe actions, as they empty the ſpleen on the one ſide, ſo they never fail to empty the Purſes on both ſides. But beſides the doing of Juſtice between Man and Man, there is much more expected from your Lordſhips: For the publick buſineſs of the Country is of much more importance than the Tryal of a *Niſi prius*, and fitting you ſhould eſteem them ſo. And therefore it is His Majeſties Command, that thoſe Services which concern Himſelf, and the Publick, be timely thought of, and not poſted off to the end of the Aſſize. Now a-fore all other things the advancement of Religion and Piety towards God, the Peace of the Church, and the execution of thoſe Laws that tend to theſe ends ought to have the firſt place. As oft as I have had occaſion to ſpeak to you here, I have ſeldom ſpared to give you a Charge of the Laws againſt Recuſants; and I muſt reiterate it now, for if you convict them not in the Country, there is like to be little reformation or profit to His Majeſty. And whoſoever they be that will not be found

An. 1636. found in the Church, it behoveth you to take order that they be found in the *Exchequer*. Next place, That you proceed roundly againſt capital and fellonious offenders, eſpecially Robbers in the High-way, who now march in Troops after a high hand. As a good Judge ought in Court to ſhew ſeverity to thoſe in the Goal, ſo the ableſt and activeſt Men in the Shire ought to do their utmoſt endeavours for the apprehending of ſuch offenders as are abroad, that when you are there or here at the Term, the Service may proceed in a good way, and you be made a terror to malefactors, as ſome of your Predeceſſors have been; for if your care be not great, malefactors will abound; therefore you muſt ſhew a ſevere and conſtant ſway of Juſtice when they are found, and it will ſoon abate their pride, wherewith they now bear up themſelves: and fit it is with an unanimous conſent you all agree of one courſe, for if there be a remiſneſs in any one Circuit, this leaveth a way to Malefactors to overthrow all reformation, and Juſtice is thereby diſcouraged. Next, Care muſt be had of thoſe Laws that concern Luxury and Idleneſs, the ſuppreſſing and puniſhing of Vagabonds, the ordering and imploying of Houſes of Correction, the repreſſing of Ale-houſes and Tipling-houſes, binding of Apprentices. If theſe were well and conſtantly obſerved, they would ſave many able Bodies which die miſerably at the Gallows, and cut off a multitude of enormities that peſter this Common-wealth, and leſſen the number of Thieves and Robbers. And therefore your Lordſhips ſhould do well to have a ſpecial care to the execution of thoſe Laws. And this gives me occaſion to put you in mind of thoſe Printed Orders publiſhed by His Majeſty in the Year 1630. wherein at firſt there was a direction given for an Accompt to be made by the Sheriff and Juſtices of the Peace. This ſame was orderly kept in divers places, in others not ſo well. It was afterwards adviſed by your ſelves, that the way of Accompt ſhould be changed, and that you ſhould receive it at the Aſſize, and preſent it to the Council-Board; yet it is my part to tell you it hath not ſo appeared by the Accompt that is come to the Council-Table, and it is expected a better be given by you at the next Term. Now in reſpect the publick Service dependeth much upon the Juſtices of the Peace in the Country, it will be neceſſary that you caſt your Eye upon them, that they give due attendance at the Aſſize. It is their duty to do it, and yours to enforce it upon them. An Aſſize laſteth but few days: But the Inſtructions which they may receive from you in that ſhort time may be of great uſe for the County for the whole Year. Alſo, that you examine whether they give due attendance at the Quarter-Seſſions, although there is an expreſs Article in their Oath that they ſhould give it; therefore it is a thing very fitting and well-worthy your labour, that in the beginning of every Aſſizes you truſt not the Clark of the Peace his Information, but that your ſelves do caſt an Eye upon his Book, and command him to return the Names of ſuch Juſtices of Peace as you find by his Book were abſent at the Quarter-Seſſions. Fit it will be that you let them know, that to prefer a Riding, or Bowling, or Hunting-Match before their attendance at the Quarter-Seſſions, is little better than Perjury. And if your admonition will not ſerve the turn, a remedy ſhall be taken. Third place, It is neceſſary for you to

to enquire how they attend the monthly Meetings, or other times of Publick-ſervice; for this I am ſure they are all within one Commiſſion, and have the ſame Oath, and the ſame Attendance is impoſed upon all, and why the greateſt number ſhould exempt themſelves, and leave the Publick-ſervice upon a few, I know not. But if I may know the particular men (of which I hope I ſhall henceforwards by your Lordſhips) I ſhall rid them out of the Commiſſion and put others in their places.

An Humble Remonſtrance to His Majeſty againſt the Tax of Ship-mony impoſed, laying open the Illegality and Inconvenience thereof, intended to have been preſented by a private hand unto His Majeſty; which met with obſtruction, and was to this effect.

Moſt Gracious and Dread Soveraign,

WE your Poor and Loyal Subjects of this your Realm of *England*, now grieved and oppreſſed with the late Taxes impoſed on us, for ſetting out of divers Ships to guard the narrow Seas, without our Common Conſent in Parliament thereunto had; do here in all Humility and Duty proſtrate our ſelves and this our Remonſtrance againſt the ſaid Taxes, at Your Highneſs Feet, beſeeching Your Majeſty of Your Royal Juſtice and Clemency, to take the ſame into Your moſt Juſt and Gracious Conſideration, and thereupon to releaſe us Your poor Subjects from this Intolerable Burthen and Grievance, under which we groan and languiſh, and know not how long it may continue.

And here firſt of all, we moſt humbly repreſent to Your moſt Excellent Majeſty, that this Tax of Ship-mony is directly contrary to the Fundamental Laws and Liberties of this Your Realm of *England*, which Your Majeſty, both in point of Juſtice and Honour is obliged inviolably to preſerve, according to the *Oath* made to God and Your Subjects at Your *Coronation*, and Your frequent Printed Royal *Proteſtations* ſince, both in Your Anſwer to the Petition in the third year of Your Highneſs Reign, in Your Royal Speech in Parliament, Printed therewith by Your Command, and in Your Declaration to all Your Loving Subjects of the Cauſes, which moved Your Majeſty to diſſolve the laſt Parliament, publiſhed by Your Special Command.

Likewiſe *page* 23, 42, 43, 44, in all which Your Majeſty (to all Your Subjects Comforts) hath made theſe ſeveral Declarations of Your Royal Pleaſure, in theſe moſt gratious Words.

'The King willeth that Right be done according to the Laws and 'Cuſtoms of the Realm, and that the Statutes (recited in the Peti-'tion of Right) be put in Execution, that His Subjects may have 'no cauſe to complain of any Wrong or Oppreſſion contrary to 'their Juſt Rights and Liberties (to the preſervation whereof he 'holds himſelf in Conſcience as well obliged as of His Prerога-'tive) let right be done as is deſired; and I aſſure you my Maxime

An. 1636. ‘is that the Peoples Liberties ſtrengthen the Kings Prerogative, ‘and the Kings Prerogative is to defend the Peoples Liberties. I ‘do here declare, that thoſe things which have been done where- ‘by men had ſome cauſe to ſuſpect the Liberty of the Subject to ‘be trencht upon, ſhall not hereafter be drawn into example for ‘your prejudice; and in time to come (in the Word of a King) ‘you ſhall not have the like cauſe to complain. We are not un- ‘mindful of the preſervation of the Juſt and Antient Liberties of ‘Our Subjects, which We ſecured them by Our Gracious Anſwers ‘to the Petition of Right in Parliament, having not ſince done any ‘Act whereby to Infringe them. But Our care is, and hereafter ‘ſhall be, to keep them intire and inviolable, as We would do Our ‘own Right and Soverainty. We do alſo declare, that We ‘will maintain the Antient and Juſt Rights and Liberties of ‘Our Subjects, with ſo much conſtancy and juſtice, that they ſhall ‘have cauſe to acknowledge, that under Our Government and ‘Gracious Protection they live in a more happy and free Eſtate, ‘than any Subjects in the Chriſtian World.

If then we ſhall make it appear to Your Majeſty, that this Tax is againſt the Laws of this Your Realm, and the juſt antient Rights and Liberties of Your Subjects, we doubt not, but Your Majeſty out of Your Royal Juſtice and Goodneſs will be moſt Graciouſly pleaſed to exonorate us thereof, and never to draw it into Example more.

That it is againſt the Fundamental-Laws, Juſt-Rights, and Antient Liberties of Your People, we ſhall make it appear by theſe particulars,

Firſt, We humbly conceive it to be contrary to ſundry Statutes of this Your Realm.

Firſt, to the Statute of *Magna Charta* cap. 29. (thirty times ratified in Parliament) 5 *Edw.* 3. *cap.* 9. 25. *Edw.* 3. *Cap.* 4. 28. *Edw.* 3. *Cap.* 3. 37. *Edw.* 3. *Cap.* 18. and to the late *Petition of Right* in the third year of your Majeſties Reigh.

Which Enact that no Freeman ſhall be taken, or diſeiſed of his Freehold or Liberties, or Free-Cuſtoms, or to be Outlaw'd or Exiled, or otherwiſe deſtroyed nor paſſed upon, nor dealt with, but by the lawful Judgement of his Peers, or by the Laws of the Land.

But divers of your poor Subjects, by vertue and Authority of the Writs for Ship-mony, have been taken and impriſoned by Your Officers, their Goods and Cattle ſeized, diſtrained and ſold, to their great damages and diſtraction, without any lawful Judgement firſt given againſt them, and before the Right or Title of this Tax, hath been legally heard and decided againſt the tenure of this Statute.

Secondly, Againſt the Statute 25 *Edw.* 3. *de Tallagio non concedendo.* 14 *Edw.* 1. *Stat.* 2. *Cap.* 1. 25 *Edw.* 3. 11 *Rich.* 2. *Cap.* 9. 1 *Rich.* 3. *Cap.* 2. and the late Petition of Right ratified by Your Majeſty, which Enact that no Tallage, Aid, Loan, Benevolence, nor any ſuch like charge, ſhall be laid or levied, by the King or His Heirs of this Realm, without the good will and aſſent of Arch-Biſhops, Biſhops,

Biſhops, Earles, Barons, Knights, Burgeſſes, and other Freemen of the Commonalty of this Realm. 12 *Caroli.*

By vertue of which Statutes Your Subjects inherited this Freedom, that they ſhould not be compelled to any Tax, Aid, or any other like Charges not ſet by Common-conſent in Parliament (as is recited in the ſame Petition) therefore not with this Tax, Tillage, Aid or Charge of Ship-mony, it being againſt theſe Acts, and not ſet by Common-conſent in Parliament.

Thirdly, Againſt all the Acts of *Tunnage*, and *Poundage*, and other Subſidies, which have from time to time in all Your Royal Progenitors Reigns been granted them, either for years, or term of their natural Lives, a certain Tax or Subſidy for the ſafe-guard and defence of the Seas, againſt Enemies and Pirates, as a free and voluntary Grant, Becauſe they by themſelves by their Royal Prerogative had no power to impoſe it on their Subjects. Some few of which we ſhall here recite.

Firſt, 14 *Edw.* 3. *Stat.* 1. *Cap.* 20, *& Stat.* 3. The Prelates, Earls, Barons, and Commons in Parliament, granted the King the ninth Lamb, Fleece and Sheep, and the ninth part of all Goods and Chattels in Burroughs for two years ſpace then next enſuing, to be taken and levied by lawful and reaſonable Tax by the ſame two years made, for the good-keeping of His Realm, as well by Land as by Sea; and of His Wars as well againſt the Parties of *Scotland*, *France* and *Gaſcoign*, as elſewhere; with this promiſe, that this Grant ſo chargeable, ſhould not another time be had forth in Example, nor fall to their prejudice in time to come. And that all the profits thereof, with others ariſing of the Realm of *England*, ſhould be imployed for the maintenance of the Wars in *Scotland*, *France* and *Gaſcoign*, and in no place elſewhere during the ſaid Wars.

Secondly, 5 *R.* 2. *Par.* 2. *Stat.* 1. a Subſidy of *Tunnage* and *Poundage* of two ſhillings of every Tun of Wine, and ſix-pence the pound of every Merchandize elſe imported (ſome few excepted) was granted to the King by Parliament for two years; during which time the Mariners of the Weſt proffered the Parliament, to make an Army on the Sea; provided always the mony thereof coming to be wholly imployed upon the ſafe-keeping of the Sea, and no part elſewhere. The Receivers and Keepers whereof were appointed by the Parliament in this Act, which appointed that the People of the ſaid Sea-Army, ſhould have all the Lawful-Prizes ſhared between them; and the Admirals and others of the ſaid Army ſhould give aſſurance to ſave the Kings Friends and Allies, without damage to be done to them or any of them, by any way; and if they did, and that be proved, they ſhould bind them upon grievous pains thereof to make amends.

Thirdly, 4 *Edw.* 4. *Cap.* 3. The Commons of the Realm of *England*, granted a Subſidy called *Tunnage*, to the King for His Life, for the defence of the ſame Realm, and was eſpecially for the ſafe-guard of the Seas; they are the words of the Act often repeated.

Which Act was revived to King *Henry* the *8th.* by Act of Parliament, *6. H.* 8. *Cap.* 14. which grants him *Tunnage* and *Poundage* during his life.

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Fourthly, 1 *Edw.* 6. *Cap.* 31. 1 *Mariæ Cap.* 1. 18. 1 *Eliz. Cap.* 19. (for the grant of *Tunnage.*) All ſeverally recite, that *Hen.* 7. *Hen.* 8. and other of thoſe Princes Noble Progenitors, Kings of this Realm, time out of mind, have had granted unto them, and enjoyed the ſame for the time, being by Authority of Parliament (for the defence of the ſame Realm, and the keeping and ſafe-guard of the Seas for the entercourſe of Merchandiſe, ſafely to come into, and paſs out of the Realm) certain ſums of mony named *Subſidies*, of all manner of Goods and Merchandiſe coming in, or going out of the Realm, *&c.*

Some will object that in the time of *Hardicanute*, this Tax of Ship-mony was paid by the People.

Now ſhall ſuch a grievous inſufferable Tax as that which *Hardicanute* no hereitary Prince but a foreign *Daniſh* Tyrant impoſed upon the People, to provide Ships of War be a Preſident who died drunk amidſt his Cups, very ſhortly after, as all our Hiſtorians record, be made or deemed a juſt and lawful Preſident for Your Majeſty now to follow, God forbid.

That Preſident of *Hardicanute*, and all former Preſidents were before the Government of this Kingdom was ſetled by *Magna Charta*, and the other Statutes againſt Taxes, Tallages, Loans, Aids and Benevolences, without Common-conſent in Parliament, enacted before *Tonnage* and *Poundage* granted, therefore impertinent to the preſent caſe.

The next Preſident objected (the firſt and moſt pertinent of all others ſince that of *Danegeld*) is that of King *John*, *Anno* 1213, who being judicially deprived of the Crown and Kingdom at *Rome* by the Pope, at the earneſt ſollicitation of *Stephen Langhton* Arch-Biſhop of *Canterbury*, *William* Biſhop of *London*, and the Biſhop of *Ely*; theſe Prelates departing from *Rome*, went into *France*, and there conſpiring with the Biſhops, and King *Philip* of *France*, againſt King *John*, they then ſolemnly publiſhed the Depoſition and Sentence of the Pope given againſt him at *Rome*; and then in the behalf of the Pope they enjoyned aſwell the King of *France*, as all other men, as they would obtain the remiſſion of all their ſins, that uniting themſelves together, they ſhould all go into *England* in an Hoſtile manner, and depoſe King *John* from His Crown and Kingdom, and ſubſtitute another worthy man in His ſtead by the Popes Apoſtolical Authority.

Hereupon the King of *France* prepared a very great and ſtrong Army, and Navy to invade both by Sea and Land to depoſe King *John*, and to get the Crown and Kingdom to himſelf: King *John* having perfect intelligence of all this, in the month of *March* commanded Ships excellently furniſhed to come together out of all the parts of *England*, ſo that he might with ſtrong hand boldly reſiſt thoſe who intended to invade *England*; he likewiſe raiſed and gathered together a very great Army out of *England* and *Ireland*, and the places near adjoyning. Thus *Mat. Weſtmonaſterienſis*, *Anno* 1213. *p.* 90. relates the ſtory; *Math. Paris* adds this thereunto, that the King in the month of *March* cauſed all the Ships out of the Ports of *England* to be imbreviated by this Writ, which he directed to all the Bayliffs of the Ports in theſe words,

Johannes Rex, &c.

Theſe

12 *Caroli.*

Theſe things thus done concerning Ships, the King ſent out Letters to all the Sheriffs of this Kingdom in this form,

Johannes Rex, &c.

Theſe two Writs therefore being divulged about *England*, there came together in the Sea-coaſts in divers places, which the King moſt ſuſpected, to wit, to *Dover*, *Feverſham* and *Ipſwich*, men of different Condition and Age, fearing nothing more than the report of *Culvertage*: But when after a few days there wanted Victuals for ſo great a multitude, the Chief Commanders of the Wars ſet home a great Company of the unarmed vulgar, retaining only the Knights, their Servants and Free-men, with the Slingers and Archers near the Sea-coaſts: moreover *John* Biſhop of *Norwich* came out of *Ireland* with five hundred Soldiers, and many Horſemen to the King, and was joyfully received of him; all therefore being aſſembled to the Battel and muſtered at *Dunham Downs*; there were among the ſelected Soldiers and Servants, ſtrong and well-armed ſixty thouſand valiant men, who had they had one heart and mind towards their Prince and Country, there had not been a Prince under Heaven againſt whom the Kingdom of *England* might not have defended it ſelf. Moreover the King reſolved to join a Battle at Sea with the Enemies, that he might drown them in the Sea before they ſhould land, for he had a greater Navy than the King of *France*, whence he conceived greateſt ſecurity of reſiſting the Enemy. Thus *Math. Paris*, *Hiſtor. Angliæ* 1213. *p.* 224, 225. whoſe words we have related at large to clear and take off the edge of that prime Preſident, in anſwering which, all ſince will be cleared from this Writ to Preſs and provide Ships and Ship-mony as now.

But under Correction we humbly conceive that this Preſident makes much againſt (nothing at all for) theſe Writs and Taxes now iſſued forth.

Firſt, It was before *Magna Charta* the Statutes againſt Taxes and Tallages, the Petition of Right, or any Subſidies of Tonnage and Poundage to guard the Seas.

Secondly, It was only directed to Port-Towns that had Ships, and not to Countries and Places which had no Ships, as theſe Writs are now.

Thirdly, It was only to the Mariners, and Owners of Ships (not to any other Perſon) which being exempted from all Land-Service, were to ſerve the King and Kingdom at this pinch and opportunity by Sea; but this Writ is on all, as well thoſe that have no Ships as others.

Fourthly, It was only to furniſh out their Ships, not to contribute mony to hire the Kings, or others, or to build new of other or greater Burthen than theſe they had; theſe Writs now are contrary to this in all theſe reſpects at leaſt in intention, if not in execution.

Fifthly,

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Fifthly, Here was no levying of Money to be paid into King *John's* Exchequer, or Officers Hand, to provide or hire Ships as now; but every man was left to furniſh his own Ships at his own beſt rate with his own Proviſion and Mariners: this quite otherwiſe.

Sixthly, Though the Mariners and owners of Ships then were by this Writ to furniſh Ships out at their own proper Coſts, yet when they were thus furniſhed, the King was to pay them both Wages, Hire, and Fraught, as His Succeſſors have ever done ſince, when they preſſed any of their Subjects Ships or Carts, for War, or Carriage. Theſe were the words, *Ituri in ſervitium noſtrum ad libertationes noſtras*; and the conſtant practice of all Kings in like caſes, (yea of Your Majeſty, who now pays Wages and Fraught for all the Mariners and Merchants Ships you preſs;) therefore this makes nothing at all for this enforcing theSubjects to ſet out Ships to guard the Seas, and ſerve Your Majeſty at their own proper Coſts and Charges, but point-blank againſt it.

The Reader, for further ſatisfaction in this Point, may find various Arguments in that Remonſtrance which became publick in the late Printing-Age.

Lent-Aſſizes. *March* 1636. A Judge of Aſſize his Charge to the Grand-Jury, as to the Caſe of Ship-mony.

SIr *R. B.* one of the Juſtices of Aſſize for the County of *York* did, at the Aſſizes held at *York* in *Lent* 1636. deliver his Charge to the Grand-Jury, that it was a lawful and inſeparable Flower of the Crown, for the King to command not only the Maritime Counties, but alſo thoſe who are In-land, to find Ships for the defence of the Kingdom: And then likewiſe affirmed, that it was not His ſingle Judgment, but the Judgment of all his brethren, witneſſed by their Subſcriptions.

And then alſo ſaid, That there was a Rumor that ſome of his Brethren that had ſubſcribed, were of a contrary Judgment; but it was a baſe and unworthy thing for any to give his Hand contrary to his Heart: and then wiſhed for his own part, that his Hand might rot from his Arm that was guilty of any ſuch crime; when as he knew (with which he was afterwards charged in Parliament) that Mr. Juſtice *Hutton*, and Mr. Juſtice *Cook*, who had ſubſcribed, were of a contrary opinion, and was preſent when they were perſwaded to ſubſcribe, and did ſubſcribe for conformity only, becauſe the major number of the Judges had ſubſcribed. And the ſaid Judge of Aſſize then alſo ſaid, That in ſome Caſes the Judges were above an Act of Parliament.

Earl of *Arundel* ſent Ambaſſador to the Emperor about the Palatinate.

FErdinando the ſecond, Emperour of *Germany*, being weakned in Body, reſolves to ſettle the Empire, and calls a Dyet to meet at *Ratisbone* the midſt of *September* this Year; where, after Conſultation for Succeſſion, the *French* under-hand promoted *Bavaria*, but the *Poland* Ambaſſador was for the Emperors Son, already King of *Hungary*, to be Elected King of the *Romans*, by the Name

Name of *Ferdinando* the third, and the Emperor afterwards dyed on the fifth of *February* following. 12 *Caroli.*

The King of *Great Britain*, upon the News of this Change in *Germany*, ſends *Thomas* Earl of *Arundel*, Earl-Marſhal of *England*, Ambaſſador to the New Emperor *Ferdinando* the third, Elected at this Imperial Dyet, to whom he preſents the Condition of His Majeſties Nephew the Palſgrave, having his Patrimony taken from him by the Emperor, and hoping for Reſtitution; but the Anſwer which the Ambaſſador received from the Emperor was, That he made no doubt in time he might be conſidered for enjoying the lower Palatinate; but for the other it much concerned the Duke of *Bavaria* in his preſent Intereſt and Poſſeſſion, who would hardly be induced to a Treaty diſadvantagious to himſelf; but *Bavaria* ſpake like a Souldier, that what he had got with ſo much hazard of his Perſon, and Expence of Treaſure won by the Sword, he would now maintain with the ſame Power in the Poſſeſſion. The Ambaſſador afterwards came away in diſdain, not taking his leave at all; for the Eyes of all the Chriſtian Princes were upon this His Embaſſy from the King of *Great Britain*, being in hope the Emperor would have done more in order to the Reſtauration of the Palatinate; ſo the Ambaſſador haſtened home into *England* to give His Majeſty an account of his Embaſſy.

This being the laſt time we ſhall have occaſion in this our ſecond Part to mention any thing concerning the Palatinate, give us leave a little to digreſs in Point of time, whereby to ſhew the Kings continued care and endeavours for the recovery of the Palatinate for the good of his Siſter and Nephews: Obſerve the Speech which His Majeſty made in Parliament in the Month of *July* 1641. and the *Manifeſto* which he then put forth, which we rather mention, that ſucceeding Parliaments may follow that Example; but that good Intention of the King and Parliament for the Reſtauration of that Family proved at that time ineffectual by the unhappy Wars that broke out in the Three Kingdoms preſently after.

His Sacred Majeſty of Great Britain, *being reſolved, in caſe this His laſt endeavours by His extraordinary* * *Ambaſſador ſent to the Diet at* Ratisbone, *for a friendly accommodation of His Nephew, the Prince-Elector-Palatine's Affairs ſhould prove fruitleſs, to have His ſaid Embaſſy, without further loſs of time, ſeconded by more powerful and effectual means, went to His Parliament on the* 5th *day of* July * *laſt, and there (after the diſpatch of ſome other Affairs) preſented the above-written* Manifeſt, *with theſe words.*

* Sir *Thomas Roe.*

* 1641.

'I Take this occaſion to preſent to both Houſes, that whereby I 'hope all the World ſhall ſee that there is a good underſtanding 'between Me and my People; it is concerning my Nephew, the 'Prince-Elector-Palatine, who having deſired Me, by the advice of 'the King of *Denmark*, to aſſiſt him in a Treaty for his Reſtauration, 'at

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'at the Diet now held at *Ratisbone* by the Emperor: I could not but 'send my Ambassador for that purpose, though I much doubt that I 'shall not have so good an Issue of it as I wish: The which My Ne- 'phew fore-seeing, hath desired Me, for the better countenancing 'of his just demands, to make a Manifest in My Name; which is a 'thing of that consequence, that if I should do it without the ad- 'vice of My Parliament, it would not be of much force. Therefore I 'do here propose it unto you, that by your advice I may do it; for 'that way I think it most fit to be published in my Name.

The said *Manifest* concerning the Restitution of the Electoral-Palatine's Family, having been seriously considered by both Houses, they together came to His Majesty in the Banqueting-House on the 12*th* of *July* last, where the Speaker delivered the Opinion and Resolution of the said Houses in this manner.

YOur Majesty in Your Royal Person was pleased to recommend this Manifest touching the Palatine Cause, to be read in full Parliament, and to be advised of by both Houses.

Both the Houses have seriously considered of it, and have commanded me to present these their humble Advices unto Your Sacred Majesty, which are expressed in this Declaration which hath passed the Votes of both Houses, and which I am commanded to read unto Your Majesty.

Die Mercurii 7. Julii 1641.

Resolved upon the Question,

THat this House doth approve of His Majesties Pious Intentions in the behalf of His Royal Sister, and His Nephew, the Prince-Elector-Palatine, and the rest of the Princes of that Family, and of the publishing this Manifest to that purpose; and that this House will be ready to give His Majesty such advice and assistance therein by Parliament, as shall stand with the Honour of His Majesty, and the Interest and Affections of this Kingdom, if the present Treaty shall not succeed.

Die Sabbathi 10. Julii 1641.

Resolved in like manner upon the Question *by the House of Peers,*

THat they do concur to this Vote with the House of Commons.

I am likewise commanded to present the humble desire of both the Houses of Parliament.

That

That Your Majeſty will be pleaſed to recommend this Manifeſt to the Parliament of *Scotland*, to have the concurrence of that Kingdom. 12 *Caroli.*

Thus much was delivered by the Speaker of the Houſe of Peers, both Houſes then attending His Majeſty in the Banqueting-Houſe at *Whitehall*: To which His Majeſty was graciouſly pleaſed to make them this Anſwer.

We take very thankfully the concurrent Advices of both the Houſes of Parliament, in ſo great and Pious a Work, declared in theſe Votes and Reſolutions, which you have read to Us.

We will alſo take care to recommend this Manifeſt unto the Parliament in Scotland, *to have the concurrence of that Kingdom, which we doubt not but they will perform.*

His Majeſties Manifeſt.

CHarles, by the Grace of God, King of *Great Britain*, *France*, and *Ireland*, Defender of the Faith, *&c.* To all to whom this preſent Manifeſt ſhall come greeting. To the end that the Endeavours of Our late Dear Father King *James*, of Bleſſed Memory, and Our own Proceedings ſince His Death, in the Cauſe of Our dear and only Siſter, Brother-in-law, and Nephews Electors and Princes Palatine of the *Rhyne* may not be forgotten, or pretendedly unknown wherein We have ſtudyed and laboured nothing more than Peace of Chriſtendom, and the avoiding of Innocent Blood, by ſeeking the reſtitution and re-eſtabliſhment of the Electoral-Houſe-Palatine in their ancient Rights, Dignities, and Poſſeſſions within the Empire; out of which they have been by violence, and force of Arms, and other undue Proceedings, expelled and baniſhed, contrary to the ancient Laws and Conſtitutions of the Sacred Empire: We have thought fit, for the vindication of Our own Honour, and to call to mind, and to publiſh to all the World both a Summary Relation of Our Actions and Endeavours paſt, and Our preſent Reſolutions in the ſame Cauſe.

It cannot be unknown unto all the Princes and Eſtates of *Europe*, and more particularly to thoſe who have had any Intereſt or Relation to the publick affairs of *Germany*, how both Our ſelves, and Our Father have, during theſe Twenty Years paſt, by many and ſeveral Ambaſſages, Treaties, and other Negotiations, to Our great Expence and Charges, both with the late Emperor *Ferdinand*, the King of *Spain*, and other Princes and Eſtates of the Empire, endeavoured by all friendly and treatable means to procure the reſtitution and re-eſtabliſhment of Our ſaid dear Siſter, Brother-in-law, and Nephews, in their ancient Rights and Poſſeſſions, as the only and poſſible way to ſettle a good and firm Peace in the Empire, and conſequently with all Princes intereſſed therein; without which it is impoſſible to expect or hope for a good, durable, and honeſt pacification of thoſe troubles which have already, almoſt

An. 1636. rent and conſumed, and involved all the Princes of Chriſtendom in a moſt bloody and deſtructive War.

And for a clear demonſtration of Our clear Intentions, not only Our own Pious inclination, and care of the publick Peace, hath induced Us to omit divers occaſions, whereby We might, by ſuch Power as God hath put into Our Hands, have prevented the violences and oppreſſions uſed to Our ſaid Siſter and Nephews; but We have been led on and invited thereto by divers Promiſes, Aſſurances, and reverſal Letters, both from the late Emperor, and King of *Spain*, and other Uſurpers of the Inheritances of the Electoral-Houſe Palatine, that they would at laſt, in contemplation of Our Mediation, hearken and incline to a juſt and honeſt Peace by the reſtitution of the Eſtates and Dignities of Our dear Siſter and Nephews, whereby We have been drawn, not only to paſs by Our own, and the publick Intereſt, and to forbear to engage Our Arms in ſo juſt a Cauſe; but alſo have procured by Our Father, and Our Authority, the withdrawing and disbanding of the Forces of Count *Mansfelt* out of the Palatinate, and advanced divers Truces and Ceſſations of Hoſtility or Defence, only to prepare the way of amiable compoſition, according to the hopes and promiſes to that end given Us, and particularly have cauſed the Surrender and Depoſition of ſome places of ſtrength into the Hands of the late *Infanta of Spain*, upon reciprocal Aſſurances of a final pacification or reſtitution.

But what effects all theſe Our Peaceable and Chriſtian endeavours have produced, and how all Our Pious Negotiations have been either delayed or deluded; thereby, and by proceſs of time to root and eſtabliſh the uſurpations of the Houſe-Palatine, and Our Patience and Piety thereby abuſed, is ſo manifeſt by the continued oppreſſion of Our ſaid dear Siſter and Nephews, that we are forced to proteſt that there hath nothing ſucceeded either to Our deſires, or hopes, but a reſolution of deſpair of ever obtaining by the ways of Juſtice, Treaty or Amity, that which hath been ſo often promiſed to, and expected of the Lovers of Chriſtian Peace.

Notwithſtanding We having lately received advice from Our dear Uncle, the King of *Denmark*, that at laſt, by his mediation and procurement, the preſent Emperor, and Duke of *Bavaria*, have condiſcended to a Treaty to be held at the Diet at *Ratisbone*, upon the ſixth day of *May* laſt paſt for the reviving and the reſettling of the controverſies of the Houſe-Palatine, as a preparation and inducement to a general Peace and *Amneſtia* through the whole Empire; and that he, with ſome of the Electors of the Empire, is accepted as Mediator of the ſaid Cauſe, and hath received ſtrong and pregnant aſſurances of a better inclination and diſpoſition towards the re-eſtabliſhment of the Electoral Family in their Rights and Dignities; and to that end hath procured convenient ſafe conduct from the Emperor to Our Nephew and his Brethren, freely to come in perſon, or to ſend their Deputies to that Diet at the time and place appointed, with all other clauſes requiſite for their ſafety, going, abiding, or coming from thence; and then to plead the Juſtice of their own Cauſe: And that in proſecution thereof, he hath inſtructed and diſpatched his Ambaſſadors, either to

affiſt

12 *Caroli.*

aſſiſt in Perſon, or by the Deputies of Our Nephews at the ſaid Treaty of Pacification; and hath deſired us herein to comply with him, by ſending Our Ambaſſadors qualified and inſtructed to the ſame purpoſe of procuring a good and ſetled Peace within the Empire, according to the intimation of the Princes-Electors ſignified to him by their Letters, thereby deſiring Us to aſſiſt in the preſent Aſſembly at *Ratisbone*.

To which end Our Nephew, the Prince-Elector-Palatine, having reſolved by Our Councel and Advice to ſend his Deputies according to the invitation and hopes intimated of a good iſſue to be expected by the amiable way of Treaty and Compoſure.

We have alſo thought fit not to be wanting to ſo good a Deſign, ſo concurrent to Our own, and the deſires of ſo many Princes, and in ſome hopes of better Fruits than hitherto all Our Endeavours have produced; have reſolved to make this Our laſt Tryal by the way of Treaties, and to ſend Our Ambaſſadors to the Emperor, and other Princes in the ſaid Diet aſſembled: And to that purpoſe have given him full power and inſtructions to contribute all Our Authority to the procurement and ſettlement of a good and bleſſed Peace by the re-eſtabliſhment and reſtitution of the Poſſeſſions and Dignities of Our ſaid dear Sifter, Nephews, and Electoral Family, without which no Peace can neither be honeſt or ſecure: Hereby exhorting and deſiring all other Kings, Princes, and States, Our Friends, Allies, and Confederates, who ſhall either be preſent at the ſaid Diet, or ſhall have their Ambaſſadors or Deputies there, that they will be aſſiſting to the juſtice of ſo good a Cauſe, and to ſo great a Bleſſing, as the reſtoring of Peace to the almoſt deſolate eſtate of *Germany*.

But becauſe We may have juſt cauſe to doubt, by many experiences of Our former endeavours, that the iſſue and fruit of this Meeting may not be anſwerable to Our juſt expectation, but rather that it may produce contrary effects, to the prejudice of the Juſtice and Rights of Our ſaid Nephews and their Family, (which God forbid) we are hereby forced to proteſt againſt all Acts, Sentences, Concluſions, or Determinations whatſoever, which ſhall or may be had, made, or declared, either in confirmation of the oppreſſions and uſurpations paſt, or any additions thereunto for the future, as invalid, and of no power or effect.

In which caſe (being contrary to Our deſire and expectation) We alſo further proteſt and declare, That We will not abandon neither Our own, nor the publick Intereſt, nor the Cauſe, Rights, and juſt Pretences of Our dear Siſter and Nephews, and other Princes and States involved with their oppreſſions; but that we will uſe and employ all ſuch force and power wherewith God hath enabled, Us both by Our own Arms, and the help and aſſiſtance of all Our Allies and Friends, to vindicate Our own Honour, the publick Peace, and redreſs of the Injuries, Uſurpations, and Oppreſſions of Our ſaid deareſt Siſter and Nephews, and their Illuſtrious Family.

And hereby as We do profeſs to uſe all Our endeavour and power to promote a happy and deſired Peace, for the conſolation of the diſtreſſed Empire; ſo We do appeal to Almighty God, the Inſpector of the Hearts of all Princes; and to the World, the Inſpector of all Our juſt Actions, that We will be innocent, before

An. 1636. God and the World, of all the evils that may enſue if theſe Our laſt Hopes ſhall be delayed or abuſed.

The Honourable Denſell Hollis *Eſq; his Speech to the Lords concerning the ſettleing of the* Queen *of* Bohemia, *and her Electoral Family, in their Right and Inheritance.*

My Lords,

July 9. 1641. 'THe Knights, Citizens, and Burgeſſes of the Houſe of Commons have commanded me to let your Lordſhips know, 'that they have taken into their ſerious conſideration His Majeſties 'Propoſal to them of the Manifeſt; in which He is graciouſly plea- 'ſed to declare His Pious Intentions concerning His Royal Siſter, 'the Prince-Palatine her Son, and the reſt of the Electoral Fa- 'mily.

'They do with all humbleneſs acknowledge His Majeſties Favour 'in communicating unto them any part of His Royal Thoughts, 'and asking their advice and councel in a Buſineſs that doth ſo near- 'ly concern him, as needs muſt the happineſs, nay the ſubſiſtence of 'theſe diſtreſſed Princes, of ſo glorious an extraction, their Veins 'being enriched with the ſame Blood, that is from ſo Royal Ance- 'ſtors, derived with glory into His Sacred Perſon.

'And in that Relation the Houſe of Commons looks upon them 'with an Eye of tenderneſs, wiſhing that every drop of that 'Princely Blood may ever be illuſtrated with Honour and Happi- 'neſs: That His Majeſty may be Crowned with this Bleſſing, 'to ſee nothing but Glory in Himſelf, and in all that bow unto 'Him.

'To hear then, that theſe Princes, ſo nearly allied unto the 'King, ſhould ſuffer that which is unworthy of them; inſtead of 'Honour, of Greatneſs, to find oppreſſion; inſtead of a Fortune 'anſwerable to their Birth and Relation, to have their ancient Pa- 'trimony torn from them, and detained by a Hand of violence, is 'a thing which makes our Ears to tingle, and our Hearts to riſe 'within us.

'My Lords, the Loyal Subjects of *England* is ſo well tuned in a 'ſweet Harmony to the Perſon of this Prince, that He is affected 'with the leaſt touch upon any part of the Princely String, and an- 'ſwers it inſtantly with a Sound proportionable; if it be good and 'pleaſant, with joy and exultation, if harſh and diſpleaſant, with 'ſorrow and lamentation; but a ſorrow not womaniſh and fatuant, 'but accompanied with indignation, and vigorous magnanimous 'reſolution, to be avenged upon whatſoever dare give offence to 'our Royal Sovereign.

'This then is enough to make us zealous for the redreſs of the 'Princes Elector's wrongs, to deſire (with impatience) to ſee him 're-inveſted in his rightful Poſſeſſions, were there nothing elſe to 'move us to it, but our love and affection, and our duty to the King.

'But, my Lords, there is yet another Motive, which hath a 'ſtrong irreſiſtable operation with us; and it is the conſideration, 'how much this is of importance to the good of Religion, the ad-

'vance-

12 *Caroli.*

'vancement of the Proteſtant Party, and redeeming many Souls 'from their Antichriſtian Bondage, which hath a double Aſpect, 'and relates to us, not only as we are fellow-members with them of 'the true Church, which obliges us to a care and defence of them, 'and gives us an aſſurance of a reward in Heaven: But doth more 'particularly concern us in point of policy and reaſon of State, by 'ſupporting our Allies to advance this Kingdom to the higheſt 'pitch of greatneſs and reputation, to make us formidable abroad 'to the enemies of our Church and State, and ſo enjoy peace, and 'ſafety, and tranquility at home.

'For, my Lords, the *Proteſtant Religion*, and this Kingdom, 'are like *Hypocrates* Twins, that muſt both live and die toge- 'ther.

'It is madneſs to think this State can ſubſiſt, if Religion be ſub- 'verted; and as great a madneſs to think our Religion can conti- 'nue here, if we ſuffer it to be deſtroyed and eradicated out of 'the Neighbour-Countries; which can no more be, (that is, our 'Religion and this Kingdom be preſerved) when our Neighbours 'of the ſame Religion and Belief with us to be conſumed, than a 'Fort can hold out, when all the Out-works be taken; or the 'Heart preſerved when a Gangrene hath ſeized on the outward 'parts of the Body.

'My Lords, as the true Religion is in the Truth, the Heart of '*England*, which gives it Life, and makes it flouriſh with ſtrength 'and power; ſo is *England* (in Politick reſpect) the Heart of the 'Proteſtant Religion in all the other Parts of Chriſtendom; and 'upon occaſion, muſt ſend out ſupply into all the Neighbouring- 'Countries profeſſing the ſame Religion with it; which (to be 'themſelves in ſafety) muſt be under the Protection of this Fort, 'under contribution to this Garriſon.

'And on the other ſide, if theſe Countries be one after another 'invaded, and poſſeſſed by the Enemies of our Religion, that great 'tye of Religion between us, and thoſe bonds be diſſolved, which 'only can unite and ſtrengthen our mutual affections and relations, 'as if they get one part, their appetite will encreaſe ſoon to ſwal- 'low up another.

'Firſt the *Palatinate*, then the other parts of *Germany*, after- 'wards the Low-Countries, and then let us think in what condition '*England* will ſtand; it will be left as a Cottage in a Vineyard, as a 'Lodge in a Garden of Cucumers, as a beſieged City, when all 'the defences are gone, it will ſoon fall to be a prey of the Enemy.

'My Lords, this Conſideration likewiſe works with the Com- 'mons of *England*; and as the Wiſe Man is to have his Eyes in his 'Head, and look before him, ſo they do look before them, and 'had rather ſee this evil met half way, than ſtay till it come to 'them; rather ſee the eating Gangrene of the *Auſtrian* Ambation 'in *Germany*, than tarry till it ſeize upon the Vital Parts of this 'Iſland, and the death of Religion inevitably follow.

'This buſineſs took up a ſerious debate, and after much time, 'and many Arguments ſpent upon the Subject, the Knights, Citi- 'zens annd Burgeſſes aſſembled in Parliament came to this reſolu- 'tion which was here read: This they have commanded me to re- 'preſent unto your Lordſhips, and deſire your Lordſhips will joyn

'with

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'with them in a tender of the like advice unto His Majeſty in appro-
'bation of His Royal Intendments.

'And likewiſe, that His Majeſty may be moved in the Name of
'both Houſes, to recommend this Buſineſs unto His Parliament of
'*Scotland*, to have the conſent and furtherance of that Kingdom;
'that as we be Brethren in mutual affection, in an equal tye of du-
'ty and allegiance unto the King our Sovereign; ſo we may be
'Brethren alſo in the ſame tender Care, and loving Zeal, for the
'good and ſupport of His Majeſties Kindred, and their Reſtitution,
'with their ancient Inheritance, and the ſafety of the Reformed
'Churches.

Directions for the due execution of the Office of Clark of the Market of His Majeſties Houſhold, throughout this Realm of England, *and Dominion of* Wales: *And for the Surveying and Sealing of the conſtant Reele appointed to be uſed by all Clothiers and workers in Cloth and Yarn, and for the encreaſe of the Poors Wages labouring therein;*

Reciting,

Concerning the Clark of the Market, and the conſtant Reel.

'WHereas ſeveral Complaints have been heretofore made, as
'well unto King *James* of ever Bleſſed Memory, in His
'Life-time, and unto His Majeſty that now is, as unto the Lords
'and others of His Majeſties moſt Honourable Privy-Council, and
'to divers of His Majeſties Juſtices of Aſſize in their Circuits, and
'Juſtices of Peace of ſundry Counties in His Majeſties Realm at
'their Seſſions, of the great abuſes, deceipts, and falſities, fre-
'quently uſed by and among Weavers Combers, Spinſters, and
'other Workers and Makers of Woolen-Cloth and Yarn, by the
'daily falſifying their Yarn, as well in the length of the Reel-ſtaff,
'as in the number of the Threds, and of the differences grown
'among themſelves concerning a conſtant Reel for the Reeling of
'Yarn to be kept, and for the encreaſe of the Wages for the Poor,
'according to the Statutes *quinto Eliz.* and *primo Jacobi*, for re-
'medy and reformation whereof, and for ſetling of a conſtant
'Courſe for the ſaid Reel, and encreaſe of the Poors Wages,
'it hath been upon great advice thought fit, that the ſaid
'Courſe of keeping of a conſtant Reel throughout all the Cloah-
'ing-Countries of this His Majeſties Realm of *England*,
'and Dominion of *Wales*, and the encreaſe of the Wages
'for the Poor, might proceed and go on for the general
'good of the whole Common-wealth: And in regard the
'Reel-ſtaff had been lately encreaſed a fifth or ſixth part longer
'than had been accuſtomed, all Spinſters ſhould have for the Spin-
'ning and Reeling of Six double Knots on the double Reel, or
'Twelve on the ſingle Reel, a Penny, which is more by Two-Pence
'in the Shilling than formerly they have had: And that all La-
'bourers, and other Artificers imployed about the Trade of Cloa-
'thing, and Yarn-making, ſhould have the like encreaſe of Wa-
'ges. And for eſtabliſhing the ſame, His Majeſty hath, by His

Letters

12 *Caroli.*

'Letters Patents, bearing date the 22*d* day of *January* now laſt 'paſt, for Himſelf, His Heirs and Succeſſors, willed, ordained, and 'appointed, as well for avoiding all future deceit in making of 'Cloath and Yarn, and for preſervation of Peace between Buyer 'and Seller, Workmaſter and Servant; and all Clothiers, Weavers, 'Combers, Spinſters, and other Workers Makers of Cloath 'and Yarn, either Woollen or Linnen, within this Realm of '*England*, and Dominion of *Wales*, that there be a conſtant Reel 'provided and kept by all and every Cloathier, Weaver, Comber, 'Spinſter, and other Workers and Makers of Cloath and Yarn, 'either Woollen or Linnen, within all and every the Counties of 'this Realm of *England*, and Dominion of *Wales*, and in all Cities, 'Burroughs, and Towns-Corporate, and other places where the 'making of Cloath or Yarn, either Linnen or Woollen, is uſed, 'the ſaid Reel to be called a Cloath-Reel, or Reel-ſtaff, and to be 'of one yard about the ſingle Reel, and two yards or two ells a-'bout the double Reel, every knot containing fourſcore threds, for 'all Yarn whatſoever both Woollen and Linnen, the ſame to be 'kept and continued as a conſtant Reel between Buyer and Seller, 'Workmaſter and Servant, whereby the truth of the ſame may 'appear to all perſons trading in Cloath or Yarn; the Surveying, 'Searching, Sealing, and overſight whereof, as of the encreaſe 'of the Wages of the Poor, His Majeſty hath by His ſaid Letters 'Patents committed and appointed unto His well-beloved Servant, '*John Etherington*, one of the Yeomen of His Majeſties Chamber, 'and to *Henry Stracey*, for the term of one and thirty years, with 'the like Fees and Allowances for the ſame their Service, as the 'Clark of the Market of our Houſhold hath for Weights and Mea-'ſures; a Schedule whereof is hereunto annexed: and that they 'attend their ſaid Service but once a-year as the Clark of the Mar-'ket doth, and that they and the ſaid Clark of the Market do travel 'and ſit together, as ſhall be moſt commodious for themſelves, and 'the good eaſe of the Commons; as by His Majeſties Letters Pa-'tents more at large appeareth.

'And whereas His Majeſty hath been informed, that many un-'conſcionable perſons within this His Realm of *England*, and Do-'minion of *Wales*, have and do uſe ſeveral Weights and Meaſures 'with the greater to buy, and with the leſſer to ſell, and do alſo 'uſe falſe and deceitful Beams and Ballances, to the great loſs and 'defrauding of His Majeſties Subjects, and eſpecially of the poorer 'ſort, who are moſt ſenſible of the ſame: And whereas the Clark 'of the Market, by the Laws and Statutes of this Realm, ought 'by his Office to inquire of the ſaid abuſes, and puniſh and reform 'the ſame, and ought alſo to ſet reaſonable and indifferent Rates 'and Prices upon Victual, and other Proviſions, chiefly in times of 'His Majeſties Progreſs, and to foreſee that the ſame be wholeſom, 'and of good condition and quality in their ſeveral ſorts; and ought 'alſo to inflict as well pecuniary as corporal puniſhment upon the 'Offenders, according to the ſeveral qualities and degrees of their 'offences: And whereas complaint hath been made unto Us, of the 'great negligence uſed in the execution of the ſaid Office, partly 'for that divers which are truſted as Deputies to execute the ſame, 'have been hitherto ignorant what their Power and Authority is,

'and

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'and partly becauſe divers of them have been very careleſs and re-
'miſs, and reſpecting only their own private gains, extort unjuſt
'Fees, and either for favour or reward ſpare the Offenders, and
'neglect the publick Service wherewith they are truſted.

'And becauſe the Clark of the Market of His Majeſties Hou-
'ſhold, and His Deputies, may be encouraged to execute their Of-
'fices and Places with integrity, and may have their juſt and reaſo-
'nable Fees allowed, and may not exact unjuſt Fees or Rewards, to
'the grief or oppreſſion of His Majeſties loving Subjects; there-
'fore His Majeſty hath thought fit to limit and expreſs the due Fees
'which the Clark of the Market, or his Deputies may require and
'take, as the ſame hath been heretofore examined and approved of,
'by the Lords, and others then Officers of the Green-Cloath, and
'ſo remain recorded in His Majeſties Compting-houſe; a Schedule
'whereof we have hereunto annexed: and whoever ſhall take
'any greater Fee or Reward than by this ſaid Schedule is expreſſed,
'upon Complaint made by any of His Majeſties loving Subjects,
'finding themſelves juſtly grieved therewith, to the Lord Steward,
'Treaſurer, or Comptroller of His Majeſties Houſhold, the Party
'offending ſhall have his deſerved puniſhment, and the Party
'wronged ſpeedy recompence for the ſame.

'And to the intent that HisMajeſties Service may be the better per-
'formed, we ſtraitly charge and command the Clark of the Market,
'that he make no Deputy or Deputies from henceforth, but ſuch
'as ſhall be of ſufficiency and ability to perform the Place, and
'which ſhall not be either Vintner, Inn-holder, Victualler, or o-
'ther Tradeſmen uſing the Trade of buying and ſelling: and that
'this His Majeſties Proclamation, for the better inſtructing of all
'His loving Subjects, ſhall, before the Feaſt of St. *Michael* the
'Arch-Angel now next coming, be proclaimed in every Market-
'Town throughout this Realm of *England*, and Dominion of *Wales*,
'and be hanged up and faſtened in a Table in every Market-place by
'an Officer, where it may continue to be ſeen and read by any that
'will: And further, that it ſhall be read in every Pariſh-Church
'before the ſaid Feaſt of St. *Michael* the Arch-Angel next coming,
'immediately after Evening-Prayer, upon the *Sunday* or Holy-day,
'by the Miniſter or Clark of the Church; and ſo from thenceforth
'at every Feaſt, of the Annunciation of the Bleſſed Virgin *Mary*,
'and the Feaſt of St. *Michael* the Arch-Angel by the ſpace of five
'years next coming, and ſhall be hanged up and preſerved in every
'Church in a Table, to be ſeen and read at all times by any that
'will; and that the defaults of Officers, Miniſters, Clarks, and
'Churchwardens in this behalf, ſhall be inquired of, and puniſhed
'by His Majeſties Juſtices of Aſſize, and Juſtices of Peace in their
'Seſſions, according to their diſcretions, as contemners of His Ma-
'jeſties Royal Commandment.

'And His Majeſty doth ſtraitly will and command, That all His
'Juſtices of Aſſize, Juſtices of Peace, Sheriffs, the Clark of the
'Market, his Deputy and Deputies, and the ſaid *John Ethrington*
'and *Henry Stracey*, their Deputy or Deputies, and all Majors,
'and other Officers of Cities, Burroughs, Liberties, and Towns-
'Corporate, High-Conſtables, Petty-Conſtables, Tything-men,
'and other His Majeſties Officers and Miniſters in all Places whatſo-
ever,

'ever, do cauſe this preſent Proclamation to be duly executed, and 'be from time to time aiding and aſſiſting to their utmoſt to the 'Clark of the Market, and his Deputies, and to the ſaid *John Eth-* 'rington and *Henry Stracey*, their Executors, Adminiſtrators and 'Aſſigns, and their Deputies, in the due execution of their Offices 'reſpectively; and that the ſaid Clark of the Market, as well now 'as hereafter, for the time being, be alſo aiding, furthering, and 'aſſiſting unto the ſaid *John Ethrington*, and *Henry Stracey*, their 'Deputy and Deputies, in the due execution of their ſaid Office, 'as they and every of them tender His Majeſties Service herein, 'the Common-wealth of this Realm, and His Majeſties high diſ- 'pleaſure.

A Declaration of the Fees anciently belonging to the Clark of the Market, for the execution of his Office.

Imprimis. FOr Sealing of every new Buſhel, for entring of the ſame, with the name and dwelling place of the owner thereof. } 4 *d.*

Item, For Sealing every half Buſhel, for entring the ſame, the owners name and dwelling-place. } 2 *d.*

Item, For new Sealing every leſſer Meaſure or Weight, for entring the ſame, with the Names, and Dwelling-places of the owners thereof. } 1 *d.*

Item, For Recording every Victuallers Name, his Dwelling-Place, and for viewing and examination of every particular Victuallers Ale and Beer-Meaſures, *be they never ſo* many, and for entring the ſame. } 2 *d.*

Item, For Recording of every Inn-holders and Vintners Name and Dwelling-place, and for viewing and examination of every particular Inn-holders and Vintners Ale, and Beer, Wine, and Hoſtry-meaſures, be they never ſo many, and for entring the ſame, } 4 *d.*

Item, For Recording of the Names and Dwelling-places of every Butcher, Grocer, Chandler, Mercer, Draper, Cloathier, or any other Perſon, entring of all their Weights, Meaſures, Ells, Yards, Beams and Ballances, and for trying and examination of the ſame, be they never ſo many, } 2 *d.*

Item, For new Sealing of every Ell or Yard at both ends, entring the ſame, with the Names and Dwelling-places of the owners thereof, } 2 *d.*

Item, For trying and examination of every Buſhel formerly Sealed, entring of the ſame with the Name and Dwelling-place of the owners thereof, } 2 *d.*

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Item, For trying and examination of every leſſer Meaſure formerly Sealed, entring the ſame, with the Name and Dwelling-place of the owners thereof, } 1 *d.*

Item, For trying and examination of every Weight and Meaſure of any perſon or perſons that ſhall be found repugnant to His Majeſties Standard, which ſhall ſell any Commodities by a leſſer Weight or Meaſure, or ſhall buy any Commodities by a greater or leſſer Meaſure, to the deceit of the Subjects, } 2 *d.*

The Fees to be taken for the Sealing and Surveying of the conſtant Reel, and for the overſight of the encreaſe of the Poors Wages, working in the making of Cloath.

Imprimis, FOr Sealing of the conſtant Reel of two Yards, or two Ells about, and for Recording and Regeſtring of the Names and Dwelling-places of the owners thereof, the like Fee as for the Buſhel, } 4 *d.*

Item, For Sealing the ſingle Reel, and for Recording and Regeſtring the Names and Dwelling-places of the owners thereof, } 2 *d.*

Item, For the trying, examination, and overſight of the double Reel being once Sealed, and for Regeſtring the Names and Dwelling-places of the owners thereof, } 2 *d.*

Item, For the trying, examination, and overſight of the ſingle Reel, and for Regeſtring of the Names and Dwelling-places of the owners thereof, } 1 *d.*

Item, For the overſight of the encreaſe of the Poors Wages, working in the making of Cloath, } *Gratis.*

Concerning the Pope's Nuntio in *England*.

AT the latter end of this Year Seignior *Gregorio Panzani*, the Popes Nuntio in *England*, and Major *Bret*, our *Engliſh* Agent at *Rome* from the Queen, being diſcharged from their Negotiations, Seignior *Gregorio Con* (a *Scot*) was appointed by the Pope to ſucceed *Panzani* as his Nuntio, and Sir *William Hamilton* (a *Scot*) ſent hence Ledger to *Rome*.

Before this time the Congregation of propagating the Faith at *Rome*, having good hopes of the Converſion and Reduction of *England* to their obedience, conſtituted Cardinal *Barbarino*, Nephew and Vice-Chancellor to the late deceaſed Pope, Patron and Protector of the *Engliſh* and *Scottiſh* Nations, as Cardinal *Ludovicus* was of the *Iriſh*; who to facilitate their Deſign, erected a ſpecial Society of four Orders of Jeſuits in *England*, whereof the Popes Legate for the time being, reſiding in *England*, was chief Patron, and Cardinal *Barbarino* the Principal Superintendent.

Titles

12 *Caroli.*

Titles of Proclamations for the Year 1636.

A *Proclamation commanding all* Mariners, *and others to His Majesties Ships, for which they are* Preſt. — Weſtminſter *the 5th day of* April.

A Proclamation inhibiting all Perſons to repair to His Majeſty for Cure of the Diſeaſe called the Kings-Evil until Michaelmas *next.* — Weſtminſter *the 7th day of* April.

A Proclamation to forbid the Importing, Buying, Selling, or Publiſhing any Forrein Edition of a Book lately printed at London *by His Majeſties Command, Intituled* Mare Clauſum. — Weſtminſter *the 15th day of* April.

A Proclamation prohibiting the wearing, buying or ſelling of Counterfeit Jewels. — Whitehall *the 18th day of* April.

A Proclamation declaring His Majeſties Pleaſure touching Orders *to be obſerved for prevention of diſperſing the* Plague. — Weſtminſter *the 22d day of* April.

A Proclamation touching Books firſt Printed *here, and after printed beyond the Seas.* — Weſtminſter *the 1ſt day of* May.

A Proclamation for Reſtraint of Fiſhing *upon His Majeſties Seas and Coaſts without Licence.* — Weſtminſter *the 10th day of* May.

A Proclamation inhibiting the Importation of Whale-Fins *or* Whale-Oyl, *into His Majeſties Dominions by any but by the* Muſcovia Company. — Weſtminſter *the 16th day of* May.

A Proclamation for adjournment of part of Trinity-Term. — Hampton-Court *the 27th day of* May.

A Proclamation for the due execution of the Office of Clark of the Market *of Our* Houſhold, *and throughout Our Realm of* England, *and Dominion of* Wales, *and for the Surveying and ſetling of the* Conſtant Reel *appointed to be uſed by all* Cloathiers, *and Workers in Cloath and Yarn; and for the increaſe of the* Poors Wages *labouring therein.* — Oatlands *the 9th day of* July

A Proclamation for the putting off Tutbury *Fair in the County of* Stafford, *and of the Muſicians or Minſtrel-Court there.* — Windſor *the 18th day of* July.

A Proclamation prohibiting the keeping of Bartholomew-Fair, *and our* Lady-Fair *in* Southwark. — July *the 26th.*

A Proclamation to prohibit the keeping of this next Sturbridge-Fair. — Warwick-Caſtle *the 20th day of* Auguſt.

A Proclamation for the further Adjourning of Michaelmas-Term. — Windſor *the 2d day of* October.

A Proclamation for a General Faſt *to be weekly obſerved throughout the Realm of* England. — Newmarket *the 18th day of* October.

A Proclamation for Cleanſing the River of *Thames of Shells and annoy-* — Windſor *the 28th day of* November.

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annoyances, and for Ballaſting of Ships with the Sand and Gravell thereof,

Hampton-Court *the* 11*th day of* December.

A Proclamation for the revocation and repeal of certain Letters Patents, *and of part of a Proclamation lately publiſhed for the keeping of a* Conſtant Reel *in Cloath-working, and for the increaſe of the Poors Wages labouring therein.*

Hampton-Court *the* 23*d day of* January

A Proclamation for the Prizing of Wines.

Weſtminſter *the* 20*th day of* February.

A Proclamation prohibiting the Importation of Gunpowder, *and that His Majeſties Subjects may be conſtantly ſupplied out of His Majeſties* Store-houſes.

Weſtminſter *the* 24*th day of* February.

A Proclamation declaring His Majeſties Pleaſure in the Incorporating of the Tradeſmen *and Artificers inhabiting within two Miles of the City of* London.

Weſtminſter *the* 5*th day of* March.

A Proclamation for putting off the Healing of the Kings-Evil *at* Eaſter *next.*

Hiſtorical Collections

for the Year, 1637.

The Arch-Biſhop of Canterburies *Diary.*

March 30. The Arch-biſhop of *Canterburies* Diary.

THurſday, I Chriſtned the Lady Princeſs *Ann*, King *Charles* His ſecond Daughter; ſhe was born on *Fryday March* the 17*th.*

June 10*th.* My Book of Records in the Tower, which concerned the Clergy, and which I cauſed to be Collected and Written in Vellam, was brought me finiſhed; 'tis *ab Anno* 20 *Ed.* 1. *ad Ann* 14. *Ed.* 4.

June 14. This day *John Baſtwick* Dr. of Phyſick, *Henry Burton* Batchelor of Divinity, and *William Prynn* Barreſter at Law, were cenſured for their Libels againſt the Hierarchy of the Church.

June 26. The Speech I then ſpake in the *Star-Chamber* was commanded by the King to be Printed; and it came out *June* 25.

June 26. This day *Monday*, the Prince *Elector*, and his Brother Prince *Rupert* began their Journey towards the Sea-ſide, to return for *Holland.*

June 30. *Fryday*, The above-named three Libellers loſt their Ears.

July 7. *Fryday*, A Note was brought to me, of a ſhort Libel poſted on the Croſs in *Cheapſide*, that the Arch-Biſhop of *Canterbury* had his hand in perſecuting the Saints, and ſheding the blood of the Martyrs, *Memento* for the laſt of *June.*

Tueſday, *July* 11. Dr. *Williams* Lord Biſhop of *Lincoln* was cenſured in the *Star-Chamber*, for tampering and corrupting of Witneſſes in the Kings Cauſe.

July 24. being *Munday*, he was ſuſpended by the High-Commiſſion, *&c.*

Auguſt 3. *Thurſday*, I Married *James* Duke of *Lenox*, to the Lady *Mary Villers*, ſole Daughter to the Lord Duke of *Buckingham*; the Marriage was in my Chappel at *Lambeth*, the day Rrainy, the King preſent.

Auguſt 23. *Wedneſday*, My Lord Mayor ſent me a Libel found by the Watch at the *South-Gate* of *Paul's*, that the Devil had left that Houſe to me, *&c.*

Auguſt 25. Another Libel brought to me by an Officer of the High-Commiſſion, faſtned to the *North*-Gate of St. *Paul's*; that the Government of the Church of *England* is a Candle in the Snuff, going out in a Stench. The ſame day at night my Lord Mayor ſent me

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me another Libel, hanged upon the Standard in *Cheapſide*; my Speech in the *Star-Chamber* ſet in a kind of Pillory, *&c.*

Tueſday, Auguſt 29. Another ſhort Libel againſt me in Verſe.

Sunday, October 22. A great noiſe about the perverting the Lady *Newport*; Speech of it at the Council; my free Speech there to the King concerning the encreaſing of the Roman Party; the freedom of *Denmark*-Houſe; the carriage of Mr. *Walter Montague*, and Sir *Toby Mathew*. The *Queen* acquainted with all I ſaid the very night, and highly diſpleaſed with me, and ſo continues.

December 12. *Tueſday*, I had ſpeech with the *Queen* a good ſpace, and all about the buſineſs of Mr. *Montague*, but we parted fair.

Prynn, Baſtwick and *Burton, June* 14.

IN *Trinity* Term this year there came a remarkable cauſe to Hearing and Cenſure in the *Star-Chamber* upon the information of the Kings Attorny-General againſt *John Baſtwick* Doctor in Phyſick, *Henry Burton* Batchelor of Divinity, and *William Pryn* Barriſter at Law, Defendants.

The Scope of the Information againſt theſe Defendants, was for Writing and Publiſhing Seditious, Sciſmatical and Libellous Books againſt the Hirarchy of the Church, and to the Scandal of the Government.

To this Information the Defendants prepared their Anſwers, but their Councel were backward to ſign them, for fear of offending the Court of Star-Chamber, but it was ſaid on the other ſide, that their Anſwers were of that nature as their Councel thought not fit to ſign them. The Defendants did petition the Court that to ancient Preſidents they might ſign their own Anſwers with their own Hands, and declared that they would abide by the cenſure of the Court if they did not make good what was contained therein, which was refuſed by the Court, unleſs they brought their Anſwers ſigned by Councel; then they tendred to the Court a croſs Bill, wherein they ſet forth the ſubſtance contained in their Anſwers, and deſired it might be accepted, but neither was admitted of by the Court; ſo it was declared by the Court that the Anſwers of Mr. *Prynn* and Dr. *Baſtwick* not coming into Court in regular way, in due time, according to the courſe of that Court, they ſhould be proceeded againſt, *pro confeſſo*; yet *Prynn* and *Baſtwick* left their Anſwers ſigned with their own hand at the Office, and alſo tendred another draught thereof to the Court.

Mr. *Burtons* anſwer was afterwards ſigned by Mr. *Holt*, a Bencher of *Grayes*-Inn, which the Court referred to the two Chief Juſtices to conſider of, and to expunge what was contained therein as unfit to be brought into Court, or was otherwiſe ſcandalous, and they expunged the whole Anſwer except ſix lines at the beginning, and three or four at the later end; Mr. *Burton* demanded the juſtice of the Court not to give way to that purgation of his Anſwer by the two Chief Juſtices, for that neither he or his Councel were heard before the ſaid Judges, what they could ſay in defence of their Anſwer; but it was ordered by the Court, that if he would not ſwear the Anſwer as it was expunged, and anſwer to Interrogatories, he ſhould be proceeded againſt *pro confeſſo*.

Mr. *Burton* in his Anſwer did ſet forth the ſubſtance of his Sermon, which he Preached the fifth of *November*, at his Pariſh-Church

13 Caroli.

Church in *Fryday-ſtreet*, the Contents of which in part appears in the Arch-Biſhop of *Canterburies* Speech in *Star-Chamber*; in which Mr. *Burton* charges the Arch-Biſhop.

1. That in the Epiſtle the *Sunday* before *Eaſter*, we have put out (*In*) and made it (*At*) the Name of *Jeſus* every Knee ſhall bow, which alteration he ſaith is directly againſt the Act of Parliament.

2. That the next Innovation, and that two places are changed in the Prayers ſet forth for the fifth of *November*, and ordered to be read (they ſay) by Act of Parliament. The firſt place is changed thus, *From, Root out the Babiloniſh and Antichriſtian Sect, which ſay of* Jeruſalem, *&c.* into this form of words, *Root out that Babiloniſh and Antichriſtian Sect (of them) which ſay*, &c. The ſecond place went thus in the old, *cut off thoſe workers of Iniquity, whoſe Religion* is Rebellion. But in the Book Printed 1635. It's thus altered, *Cut off thoſe Workers of Iniquity who turn Religion into Rebellion.*

Next that the Prayer for the Navy is left out of the late Book for the Faſt.

And in the Book entituled *News from Ipſwich* fol. 2 *d.* there is mention made of the firſt Innovation in the laſt years Faſt as injoyned to be without *Sermons* in *London*, the Suburbs and other Infected places contrary to the Orders of other Faſts in former times, they ſay, whereas Sermons are the only means to humble men, *&c.*

The ſecond Innovation, they ſay, is, That *Wedneſday* was appointed for the Faſt-day, and that this was done with this intention, by the example of this Faſt without Preaching, to ſuppreſs all the *Wedneſday* Lectures in *London*.

The third Innovation is, That the Prayer for ſeaſonable Weather was purged out of this laſt Faſt-Book, which was (ſay they) one cauſe of Shipwracks and Tempeſtuous Weather.

The forth Innovation is, That there is one very uſeful Collect left out, and a Clauſe omitted in another.

The fifth Innovation is, That in the ſixth Order for the Faſt, there is a paſſage left out concerning the abuſe of faſting in relation to merit.

The ſixth Innovation is, That the Lady *Elizabeth* and her Princely Children are daſhed (that's their Phraſe) out of the new Collect, whereas they were in the Collect of the former Book.

The ſeventh Innovation is, That theſe words (who art the Father of thine Elect, and of their ſeed) are changed in the Preface of that Collect, which is for the Prince and the Kings Children, and with a moſt ſpiteful Inference, That this was done by the Prelates to exclude the Kings Children out of the number of Gods Elect; and they call it an intolerable Impiety and horrid Treaſon.

In Dr. *Baſtwicks* Anſwer there were theſe paſſages, That the Prelates were Invaders of the Kings Prerogative-Royal, Contemners and Diſpiſers of the whole Scriptures, Advancers of Popery, Superſtition, Idolatry and Prophaneſs; alſo that they abuſed the Kings Authority to the oppreſſion of His Loyal Subjects, and therein expreſſed great Cruelty, Tyrany and Injuſtice; and in the execution of

An. 1637. of this impious performance, they ſhewed neither Wit, Honeſty nor Temperature, nor were they either ſervants of God or of the King, (as they ought to be indeed) but of the Devil, being Enemies of God and the King, and of every living thing that was good. All which the ſaid Dr. *Baſtwick* declared he was ready to maintain.

Mr. *Prynn* his Anſwer was much againſt the Hirarchy, but in more moderate and cautious expreſſions, and in the concluſion of his Anſwer ſaid, that what was contained therein, and which he then tendred to the Court, though not accepted, he would ſtand to and make it good, and abide the Cenſure of the Court, if he failed to do the ſame, might his Anſwer be but read.

All the ſaid three Defendants ſtanding at the Bar, the Court cauſed the Information to be read, and no Anſwer being put in, nor filed on Record, in the Court, the Court began to proceed to Sentence. But the Defendants before the Court ſpake, cryed out for Juſtice, that their Anſwers might be read, and that they might not be condemned unheard: nevertheleſs the Court proceeded becauſe their Anſwers were not filed on Record; and the Lords continued ſpeaking till three of the Clock in the Afternoon, whoſe Speeches we took verbatim in Characters, and writ them out afterwards at large, but lending them to a Friend to peruſe, whom we cannot call to mind, he dealt unfriendly with the Author, and never reſtored them again: wherefore he is neceſſitated to be brief in the narration of this remarkable Cauſe, which he had reduced into good order and method, containing alſo Excellent Speeches made that day in that Cauſe.

The Court proceeded to Sentence, and fined each of the Defendants, *Prynn*, *Baſtwick* and *Burton*, 5000 *l.* a-piece to the King, and adjudged the two later to ſtand in the *Pillory* at *Weſtminſter*, and there to loſe their Ears; [and that Mr. *Prynn* having once loſt his Ears before, by ſentence of this Court, *Anno* 1633] wherefore he was now ſentenced to have the remainder of his Ears cut off, and alſo it was decreed that he ſhould be ſtigmatized on both Cheeks with S. L. ſignifying a *Seditious Libeller*. And in *June* 30 the above named three Defendants loſt their Ears, the Hangman rather ſawing off the remainder of *Prynn*'s Ears, than cutting them off: they were all likewiſe committed cloſe Priſoners, one to the Caſtle of *Lanceſton* in *Cornwall*, another to the Caſtle of *Lancaſter*, and a third to *Carnarvan*-Caſtle in *Wales*, and afterwards removed to remote *Iſlands*, where they were kept cloſe Priſoners; the Wives of *Baſtwick* and *Burton*, not being allowed after many Petitions to have acceſs unto them, nor to ſet footing in the Iſland; neither was any Friend permitted to have acceſs to Mr. *Prynn*.

Here followeth part of the Arch-Biſhop of *Canterburies* Speech, in reference to the ſaid Innovations charged upon him by the Priſoners at the Bar; to every one of which the Arch-Biſhop gave a particular Anſwer; but for clearer ſatisfaction read the Speech at large in the Appendix.

13 Caroli.

My Lords,

'I Shall not need to ſpeak of the infamous courſe of Libelling in 'any kind, nor of the puniſhment of it, which in ſome caſes 'was Capital by the Imperial Laws, as appears.

'Nor how patiently ſome great men, very great men indeed, 'have born *Animo civili* (that's *Sueton* his words) *Laceratam* '*exiſtimationem*, the tearing and rending of their Credit and Re-'putation, with gentle, nay, a generous mind.

'But of all Libells, they are moſt odious which pretend Religi-'on; as if that of all things did deſire to be defended by a Mouth 'that is like an open Sepulcher, or by a Pen that is made of a ſick 'and loathſom Quill.

'For my care of this Church, the reducing of it into Order, the 'upholding of the External-Worſhip of God in it, and the ſetling of 'it to the Rules of its firſt Reformation, are the Cauſes (and the 'ſole Cauſes, whatever are pretended) of all this Malicious Storm, 'which hath lowred ſo black upon me, and ſome of my Bre-'thren; and in the mean time, they which are the only, or the 'Chief Innovators of the Chriſtian world, having nothing to ſay, 'accuſe us of Innovation; they themſelves and their Complices in the 'mean time being the greateſt Innovators that the Chriſtian world 'hath almoſt ever known. I deny not but others have ſpread more 'dangerous Errors in the Church of Chriſt; but no men in any 'age of it have been more guilty of Innovation than they, while 'themſelves cry out againſt it, *Quis tulerit Gracchos.*

'And a great trouble 'tis to them, that we maintain that our 'Calling of Biſhops is *Jure Divino*, by Divine Right. Of this I 'have ſaid enough, and in this place, in *Leightons* Caſe, nor will 'I repeat: Only this I will ſay, and abide by it, That the Calling 'of Biſhops is *Jure Divino*, by Divine Right, though not all ad-'juncts to their Calling. And this I ſay in as direct oppoſition to 'the Church of *Rome*, as to the Puritan humour.

'And I ſay further, That from the Apoſtles times, in all ages, 'in all places, the Church of Chriſt was governed by Biſhops, and 'Lay-Elders never heard of, till *Calvin*'s new-fangled deviſe at *Ge-'neva.*

'For the main ſcope of theſe Libels, is, to kindle a jealouſie in 'mens minds, that there are ſome great Plots in hand, dangerous 'Plots (ſo ſays Mr. *Burton* expreſly) to change the Orthodox Reli-'on eſtabliſhed in *England*, and to bring in, I know not what, *Ro-'miſh* Superſtition in the room of it, as if the external decent Wor-'ſhip of God could not be upheld in this Kingdom, without bring-'ing in of Popery.

'But to return to the buſineſs: what is their Art to make the 'World believe a change of Religion is endeavoured? What! why, 'forſooth, they ſay, there are great Innovations brought in by the 'Prelates, and ſuch as tend to the advancing of Popery.

'Now that the vanity and falſhood of this may appear, I ſhall 'humbly deſire your Lordſhips to give me leave to recite briefly all 'the Innovations charged upon us, be they of leſs or greater mo-'ment, and as briefly to anſwer them. And then you ſhall clearly 'ſee whether any cauſe hath been given of theſe unſavoury Libels,

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'and withal whether there be any ſhew of cauſe to fear a change 'of Religion; and I will take theſe great pretended Innovations in 'order, as I meet with them.

See them in the whole Speech at large.

Part of the Arch-Biſhop of *Canterburies* Speech at the Cenſure of *Prynn*, *Baſtwick* and *Burton*.

'ONe thing ſticks much in their Stomachs, and they call it an '*Innovation* too, and that is, bowing or doing reverence at 'our firſt coming into the Church, or at our nearer approaches to the 'Holy Table, or the Altar, (call it whether you will) in which 'they will needs have it, that we worſhip the Holy Table, or God 'knows what.

'To this I Anſwer, *Firſt*, That God forbid we ſhould worſhip any 'thing but God himſelf.

'*Secondly*, That if to worſhip God when we enter into his Houſe, 'or approach his Altar, be an Innovation, it is a very old one.

'For *Moſes* did reverence at the very Dore of the *Tabernacle*, '*Numb.* 20. *Hezekiah*, and all that were preſent with him, when 'they had made an end of Offering, Bowed and Worſhipped, '(2 *Chron.* 29.) *David* calls the People to it with a *Venite*, *O come 'let us worſhip, and fall down, and kneel before the Lord our Maker* '(Pſal. 95.) And in all theſe places (I pray you mark it) 'tis bo-'dily-worſhip.

'Nor can they ſay, that this was Judaical-worſhip, and now not 'to be imitated, for long before Judaiſm began, *Bethel*, the Houſe 'of God, *was a place of Reverence*, (*Gen.* 28.) therefore certainly 'of, and to God.

'And after Judaical-worſhip ended, *Venite*, *adoremus*, as far up-'wards as there is any track of *Liturgy*, was the *introitus* of the 'Prieſt all the *Latine* Church-over.

'And in the daily Prayers of the Church of *England* this was 'retained at the Reformation, and that *Pſalm*, in which is *Venite 'Adoremus*, is commanded to begin the Morning-Service every 'day: And for ought I know, the Prieſt may as well leave out the '*Venite*, as the *Adoremus*; the calling the people to their duty, as 'the duty it ſelf, when they are come.

'Therefore even according to the Service-Book of the Church 'of *England*, the Prieſt and the People both are called upon, for 'external and bodily Reverence and Worſhip of God in his Church. 'Therefore they which do it, do not *Innovate*. And yet the Go-'vernment is ſo moderate (God grant it be not too looſe the while) 'that no man is conſtrained, no man queſtioned, only religiouſly 'called upon, *Venite adoremus*, come, let us Worſhip.

'For my own part, I take my ſelf bound to worſhip with Body, 'as well as in Soul, when-ever I come where God is worſhipped. 'And were this Kingdom ſuch as would allow no Holy-Table ſtand-'ing in its proper place (and ſuch places ſome there are) yet 'I would worſhip God when I came into his houſe. And were 'the times ſuch, as ſhould beat down Churches, and *all the curious 'carved work thereof, with Axes and Hammers*, as in *Pſalm* 74. and 'ſuch times have been) yet would I worſhip in what place ſoever 'I came to pray, though there were not ſo much as a ſtone laid 'for *Bethel*. But this is the miſery, 'tis *ſuperſtition* now adays for 'any man to come with more reverence into a Church, than a Tin-

'ker

'ker and his Bitch come into an Ale-houſe; the Compariſon is too 'homely, but my juſt indignation at the profaneneſs of the times, 'makes me ſpeak it.

'And you my honourable Lords of the *Garter*, in your great ſo-'lemnities, you do your Reverence, and to Almighty God, I doubt 'not, but it is *verſus Altare*, towards his Altar, as the greateſt place 'of Gods reſidence upon Earth; I ſay the greateſt, yea greater 'than the Pulpit, for there 'tis *hoc eſt Corpus meum*, this is my Body; 'but in the Pulpit, 'tis at moſt but, *hoc eſt Verbum meum*, this is my 'word. And a greater reverence (no doubt) is due to the Body, 'than to the word of our Lord. And ſo in Relation, anſwerably 'to the Throne where his Body is uſually preſent, than to the 'Seat, whence his word uſeth to be proclaimed. And God hold it 'there at his word; for, as too many men uſe the matter, 'tis *hoc* 'eſt *verbum Diaboli*, it's the word of the Devil, in too many places; 'Witneſs Sedition, and the like to it. And this reverence ye do 'when ye enter the Chappel, and when you approach nearer to of-'fer: And this is no Innovation, for you are bound to it by your 'Order, and that's no new thing.

'I humbly crave pardon of your Lordſhips for this my neceſſary 'length, and give you hearty thanks for the noble Patience, and 'your juſt and honourable Cenſure upon theſe men, and for your 'unanimous diſlike of them and defence of the Church, but becauſe 'the buſineſs hath ſome reflection upon my ſelf, I ſhall forbear to 'cenſure them, but leave them to Gods Mercy and the Kings Ju-'ſtice. See the ſpeech at large in the *Appendix*.

THe Report of this Cenſure, and the ſmart execution thereof flew quickly into *Scotland*, and the diſcourſe among the Scots were, that the Biſhops of *England* were the cauſe thereof, that they muſt expect to have a *Star-Chamber* erected in their Kingdom to ſtrengthen their Biſhops power there, beſides the High-Commiſſion which was there already erected: and about this time a ſtrange accident happened in offering an affront to a Biſhop at *Edenburgh* as followeth.

On the 23*d*. of *July* next following the ſaid Cenſure of *Prynn*, *Baſtwick* and *Burton* (being five Weeks and odd days) there happned a great Tumult at *Edenburgh* in *Scotland* about the in-bringing of the Service-Book or Common-Prayer; where no ſooner was the *Liturgie* begun to be read at the great Church in *Edenburgh* (the Biſhop and Dean being in their Whites) but the People in the Church with great outcries and clamors threw a Stool at the Head of the Biſhop, crying *a Pape, a Pape, Antichriſt, Antichriſt, ſtane him, ſtane him*; and the Magiſtrates then preſent had much to do to preſerve the Biſhop from the fury of the People; but of this Tumult more fully hereafter.

Concerning which Tumult the Arch-Biſhop of *Canterbury* makes this Memorial in his Diary on *April* 29. 1638. *viz.* The Tumult in *Scotland* about the Service-Book offered to be brought in, began *July* 23. 1637. and continued increaſing by fits, and hath now brought that Kingdom in danger; no queſtion but that there is a great concurrence between them (meaning the *Scotch* Covenanters) and the *Puritan* party in *England*) having a great aim there to deſtroy me in the Kings opinion, *&c.*

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Now that we are come in order of time to make mention of the Tumults and diſorders in *Scotland* about the Service-Book, we beg leave for a while to make a ſtep into *Scotland* before we proceed further at preſent in home-affairs, and accept a Summary Account of the Riſe, Progreſs, and ſeveral ſteps in that Tumult, and the Conſequences which thereupon followed.

A Summary Account of the Commotions in *Scotland* from *July* 23. 1637.

PReparations for divers years by-paſt were made for the inbringing of the Service-Book into *Scotland*, to have Uniformity in Divine Worſhip, and Church-Government between the two Kingdoms: formerly the Prelacy was quité or almoſt ruined in *Scotland*, but in latter times by degrees built up again, by all the ways and means which King *James* the *6th* and King *Charles* the 1*ſt* could deviſe, though with great averſeneſs of the Noble-men, Gentry, and the greater part of the Miniſtry; and by this time that Work was almoſt brought to perfection, for of the fourteen *Scottiſh* Biſhops nine were Privy-Councellors; the Arch-biſhop of St. *Andrews*, Primate of *Scotland*, was alſo Lord Chancellor, and many of the reſt had alſo good State-employments, and gainful Offices in the Civil, and had all the Eccleſiaſtical in their own Power; for the Layicks, who were joyned with them in Commiſſion, for moſt part declined that Employment.

Since the Synod held at *Perth* in the *Year* 1618. they had no National Aſſembly, yet there remained a kind of Face or Name of Provincial Synods, Presbyteries, and Parochial Seſſions.

But of late the high Commiſſion was erected, and a Book of *Canons* for that Church ſet forth by the Kings Authority, and all the Subjects of *Scotland* were injoyn'd to ſubmit to the Epiſcopal Cenſure; and then their Conſiſtories, Claſſes, and Presbyteries, were held in the nature of Conventicles, and there remained not the ſhadow of their former Eccleſiaſtical Policy.

Moreover a Liturgy for that Church being framed, and at this time finiſhed, and ordered to be Publiſhed by Royal Authority, and to be received throughout that whole Kingdom, His Majeſty Publiſhed His Reaſons for Impoſing the ſame to this effect.

That King *James*, after His coming into *England*, promoted that work in His life time.

THat His Father of Bleſſed Memory, immediately after His coming into *England*, comparing the decency and uniformity of Gods Worſhip here in *England*, obſerved (eſpecially in the Liturgy of the Church) with that diverſity and deformity in *Scotland*, where no ſet or publick form of Prayer was uſed, bethought Himſelf ſeriouſly how His firſt Reformation in that Kingdom might begin, at the publick Worſhip of God, and chiefly by an Unity and Uniformity in the publick Prayers and Service of the Church. Concerning which divers Conſultations were had with the Biſhops, and others of the Clergy of moſt eminent Note in that Kingdom: But thoſe deliberations received ſome oppoſition, and many intermiſſions till the Year 1616. in a general Aſſembly held at *Aberdeen*, His Royal Father by His Letters and vehement Inſtance of His Commiſſioners there preſent, made the neceſſity of a publick Liturgy apparent. A Book in purſuance of an Act of that Aſſembly was framed by thoſe that were deputed for that purpoſe, and was by the Arch-biſhop of St. *Andrews* ſent up to His Royal Father.

Father, who punctually peruſed it, and had it reviſed by ſome of that Kingdom here in *England*; and after His and their Obſervations, Additions, Mutations, Expunctions, He ſent it back to be recommended to that whole Church, being for ſubſtance, frame, compoſure much about one with that which was now commended to them: Which had been then received, if the King His Father had not dyed, whilſt theſe things were in doing, before they could receive their Period. That which moved King *James* to haſten that Liturgy, and an High-Commiſſion-Court was to curb ſuch of His Subjects in *Scotland* as were inclined to Puritaniſm, and who would be medling with State Matters in their Pulpits, and ſometimes not ſpare the King Himſelf. His Majeſty that now is reſolved to purſue that Deſign, and required the ſame Service-Book tranſmitted by His Father to that Church, to be remitted to Him. Which having received (after many ſerious Conſultations had with divers of the Biſhops and Clergy of that Kingdom, here preſent in *England*, and after advice by Letters and Inſtructions to the reſt at home, and after many humble Remonſtrances and Advertiſements made by them, of the reaſons of ſome alterations for the removing of ſome conceived difficulties) His Majeſty was content the Book ſhould come out as now it was Printed, being fully approved by them. And that this was compoſed in ſubſtance not different from that of *England*, that the *Roman* Party might not upbraid Us with any material differences in Our Liturgies, and yet in ſome few alterations differing from it, that it might be truly reputed a Book of that Churches own compoſing, and eſtabliſhed by His Royal Authority, as King of *Scotland*.

And that together with this Book His Majeſty ſent certain Inſtructions to the Biſhops of that Kingdom; that notwithſtanding He had eſtabliſhed it by His Authority, yet they ſhould proceed with all moderation, and diſpence with ſuch things contained in the Book as they ſhould find them, either not well perſwaded of them, or willing to be informed concerning them, or did hope that time and reaſon might gain to a better belief of them.

The time appointed for the firſt reading of the Service-Book in all Churches was *Eaſter-day* 1637. which was publiſhed by Proclamation. At which time (as the King declareth) no ſymptoms of any conſiderable oppoſition did appear, yet upon good conſideration; and for the further tryal of Mens minds, the reading of it was delayed till the 23*d* of *July* next enſuing, to the end that the Lords of the Seſſion, (which in *England* are called the Judges of Cauſes in Term-time in *Weſtminſter-Hall*) and others who had any Law-buſineſs might ſee the ſucceſs of it before the riſing of the Seſſion, which always ends the firſt of *Auguſt*, and ſo might, at their return into the Countries, report the receiving of this Book at *Edenburgh*, it being ſo ordered, that the Book ſhould be read only in the Churches of *Edenburgh*, and Parts adjacent. And notice hereof was publiſhed in the ſeveral Pulpits the *Sunday* immediately before.

Accordingly on the 23*d* of *July* the Service-Book was begun to be read in *Edenburgh* in St. *Giles's* Church, (commonly called the great Church) where were preſent many of the Councel, both

13 *Caroli*

King *James* dies whilſt the Liturgy was in framing.

King *Charles* I. purſues the ſame Deſign, and putteth the Liturgy in print, as now it is compoſed.

Adviſing the Biſhops to proceed with moderation.

The Liturgy appointed to be read on *Eaſter-day*.

But deferred till the 23*d* of *July*.

July 23. 1637.

It met then with interruption.

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both the Arch-biſhops, and divers other Biſhops, the Lords of the Seſſion, the Magiſtrates of *Edenburgh*, and a great Auditory of all ſorts of People.

No ſooner was the Book opened by the Dean of *Edenburgh*, but a number of the meaner ſort (many of them being Women) with clapping of their Hands, execrations and outcries, raiſed an hideous noiſe and hubbub. The Biſhop of *Edenburgh*, who was to Preach that day, ſtept into the Pulpit (being immediately above the Reading-place) with thoughts of appeaſing the Tumult, and preſently a Stool was thrown at his Head, but diverted by the hand of one preſent. The Arch-biſhop of St. *Andrews*, Lord Chancellor, and other great Perſons, having no reverence from the Multitude, but entertained with clamors and imprecations, the Provoſt, * Bailiffs, and others of the Conncel of the City, came from their places, and with much ado, and in great confuſion, thruſt out of the Church thoſe People that had made the Tumult, and ſhut the Church doors againſt them. After which the Dean read the Service. But ſuch were the out-cries, rapping at the Doors, throwing in of Stones at the Windows by the Multitude without, who cry'd *a Pape, a Pape, Antichriſt, pull him down*, that the Bailiffs of the City were inforced again to leave their places to appeaſe their fury.

A Stool thrown at the Biſhops Head.

* *i. e.* Aldermen.

Stones thrown in through the Windows into the Church.

Service and Sermon being ended, the Biſhop of *Edenburgh*, who had Preached, repairing to his Lodging, diſtant not many paces from the Church, was invironed and near trodden to death by the People, had he not been ſuddenly reſcued by ſome who obſerved his danger, and by whom he was recovered, almoſt breathleſs, into his Lodging.

The Biſhop in great danger.

The ſame morning the Service was read in the next Church to St. *Giles's*, yet not without noiſe and tumult, and in the *Gray-fryars* Church, the Elected Biſhop of *Argile* beginning to read, was by the Peoples exclamations and threatnings inforced to give over, after the reading of the Confeſſion and Abſolution.

The Service-Book read in other Churches, but interrupted.

Between the two Sermons, the Provoſt and Bailiffs of *Edenburgh* being called by thoſe of the Kings Councels that were in Town, then aſſembled at the Lord Chancellors Lodging, undertook to do their uttermoſt for the peaceable reading of the Service in the afternoon; accordingly the Book was read in St. *Gile's*, and ſome other Churches; but after Evening-Prayer the Tumult was far greater than in the Morning; for the Earl of *Roxborough*, Lord-Privy-Seal, returning to his Lodging with the Biſhop of *Edenburgh* in his Coach, had his Coach and Coach-man ſo pelted with Stones, and preſſed upon by the Multitude for having the Biſhop in it, that they were brought in danger of their lives, and with much ado recovered their Lodging, and were only preſerved by the help of his Lordſhips Footmen, who with their Swords kept off the croud of People.

The Earl of *Roxborough*, and the Biſhop pelted with Stones.

The next day the Council cauſed a *Proclamation* to be made in deteſtation of this Tumult, and to diſcharge all tumultuous meetings and concourſes of People in *Edenburgh* upon pain of death. The Magiſtrates and Perſons in Authority diſavowed theſe diſorders, wherein none of quality had yet appeared.

A Proclamation made againſt the Tumult.

After

After theſe things the Magiſtrates of *Edenburgh* were commanded to aſſemble the Council of the City, to reſolve what courſe ſhould be held for finding out the Movers and chief Actors in the Uproar, and to make report to the Privy-Council, which report they made accordingly with a deteſtation of that Tumult, and a promiſe of their beſt diligence to find out the Authors and Abettors thereof, and their beſt aſſiſtance for the quiet eſtabliſhing and reading of the Service-Book in all their Churches.

13 Caroli.

The Magiſtrates of *Edenbrough* endeavour to diſcover the Actors in the uproar.

The Miniſters of the City being loth to undertake the reading of it, without ſecurity given for the ſafety of their Perſons, the Lords of the Council ordered, that the Provoſt, Bailiffs, and Town-Council of *Edenburgh*, ſhould adviſe concerning ſome Obligatory Act to be made for the peaceable Exerciſe of the Service-Book, to which they agreed, and promiſed, that (ſince their former Readers had refuſed to read that Book) if in the mean time the Miniſters themſelves would read it, they would take order for their ſecurity, and alſo for their ſetled Maintenance; and ſo an Act was drawn up by the Kings Advocate, to which the City-Magiſtrates aſſented, and which the Council paſſed, and entred it into the Council-Book.

The Miniſters require protection in reading the Service-Book.

This Uproar at *Edenburgh* was highly diſpleaſing to the Court of *England*, and the Arch-biſhop of *Canterbury* expreſſed his thoughts of the management of this Buſineſs by the Biſhops and others in *Scotland*, in his Letter to the Earl of *Traquair*, dated *Auguſt* 7. 1637. in theſe words.

Auguſt 7. 1637.

The Arch-biſhop of Canterburies *Letter to the Lord* Trequare, *Dated* Auguſt 7. 1637.

My Lord,

I Think you know my opinion, how I would have Church-Buſineſs carried; were I as great a Maſter of Men, as (I thank God) I am of Things; 'tis true, the Church as well there as elſewhere hath been over-born by violence, both in matter of Maintenance and Juriſdiction: But if the Church will recover in either of theſe, ſhe and her Governors muſt proceed, not as ſhe was proceeded againſt, but by a conſtant temper ſhe muſt make the World ſee ſhe had the wrong, but offer none; And ſince Law hath followed in that Kingdom, perhaps to make good that which was ill done; yet ſince a Law it is, ſuch a Reformation or Reſtitution would be ſought for, as might ſtand with the Law, and ſome expedient be found out how the Law may be by ſome juſt expoſition helped, till the State ſhall ſee cauſe to aboliſh it.

His Majeſty takes it very ill, that the buſineſs concerning the ſtabliſhment of the Service-Book hath been ſo weakly carryed, and hath great reaſon to think himſelf and his Government diſhonoured by the late Tumult in Edenburgh July 23. *and therefore expects that your Lordſhip, and the reſt of the Honourable Council, ſet your ſelves to it, that the Liturgy may be eſtabliſhed orderly, and with peace, to repair what hath been done amiſs: For His Majeſty well knows the Clergy alone have not power enough to go through with a buſineſs of this nature; and therefore is not very well ſatisfied with them, either for the omiſſion in that kind, to adviſe for aſſiſtance of the Lords Council, or for the preparation*

or

An. 1637.

or way they took. For certainly the Publication a week before, that on the next Sunday *the Prayers, according to the Liturgy, ſhould be read in all the Churches of* Edenburgh, *was upon the matter to give thoſe that were ill-affected to the Service time to communicate their thoughts, and to premeditate and provide againſt it, as it is moſt apparent they did.*

Nor is His Majeſty well ſatisfied with the Clergy, that they which are in Authority were not advertized, that they might attend the countenancing of ſuch a Service, ſo much tending to the Honour of God and the King; And I am verily perſwaded, if that accident of the Marriage of your Kinſman had not carried your Lordſhip out of the City that day, ſome things would not have been altogether ſo bad, and my Lord Privy-Seal would have had the better aſſiſtance.

Neither was this the beſt Act that ever they did to ſend away their Letters apart, without acquainting the Council, that their Advertiſements might have come by the ſame Meſſenger, together with their joynt advice, which way was beſt to puniſh the offenders, at leaſt the prime and chief of them, and which to prevent the like diſorders; and after ſo long time of preparation to be to ſeek who ſhould read the Service, is more than ſtrange to me, unleſs they think ſuch a buſineſs can do it ſelf: but His Majeſty, out of His Piety and Wiſdom, gave (by the Meſſenger which the Biſhops ſent) ſuch full directions, both to the Lords of the Council, and the Lords of the Clergy, as I hope will ſettle the buſineſs from further trouble. But the Proclamation which you have now ſent up to the King I have not yet ſeen.

Of all the reſt, the weakeſt part was the interdicting of all Divine Service till His Majeſties Pleaſure was further known. And this, as alſo the giving warning of the publiſhing, His Majeſty, at the firſt reading of the Letters, and report of the Fact, checked it, and commanded me to write ſo much to my Lord of St. Andrews, *which I did; and your Lordſhip, at the Council* July 24. *ſpake very worthily againſt the interdicting of the Service: For that were in effect as much as to diſclaime the Work, or to give way to the inſolency of the baſer Multitude, and His Majeſty hath commanded me to thank you for it in His Name; but the diſclaiming the Book as any act of theirs, but as it was His Majeſties Command, was moſt unworthy; 'tis moſt true, the King commanded a Liturgy, and it was time they had one, they did not like to admit of ours, but thought it more reputation for them (as indeed it was) to compile one of their own; yet as near as might be they have done it well. Will they now caſt down the Milk they have given, becauſe a few Milk-maids have ſcolded at them? I hope they will be better adviſed, certainly they were very ill adviſed, when they ſpake thus at the Council-Board; but, my Lord, of this there was not one word in the Letter. So I hope they have done with that.*

Auguſt 7. 1637. W. Cant.

At this time the Lords of the Council, as they complained to the King of this diſorder, ſo they ſpared not to lay the greateſt blame of it upon the Biſhops, which appears from the following Letter written by the Earl of *Traquair* to the Marqueſs of *Hamilton.*

My

13 Caroli.

My Noble Lord,

AT the meeting of the Council here at Edenburgh *the 23d of this inſtant, we found ſo much appearance of trouble and ſtir like to be amongſt people of all qualities and degrees, upon the urging of this new Service-Book, that we durſt no longer forbear to acquaint His Majeſty therewith, and humbly to repreſent both our Fears and our opinions, how to prevent the danger at leaſt; our opinions of the way, we would wiſh His Majeſty ſhould keep therein, or before he determine what courſe to take for pacifying of the preſent ſtir, or eſtabliſhing of the Service-Book hereafter; wherein (all I will preſume to add to what the Council hath written) is to intreat your Lordſhip to recommend to His Majeſty, that if he be pleaſed to call to himſelf any of the Clergy, he would make choice of ſome of them of the wiſeſt and moſt calm diſpoſitions; for certainly ſome of the leading Men amongſt them are ſo violent and forward, and many times without Ground and true Judgment, that their want of right underſtanding how to compaſs buſineſs of this nature and weight, doth often breed us many difficulties, and their raſh and fooliſh expreſſions, and ſometimes attempts both in private and publick, have bred ſuch a fear and jealouſie in the Hearts of many, that I am confident, if His Majeſty were rightly informed thereof, he would blame them, and juſtly think, that from this and the like proceedings ariſes the grounds of many miſtakes amongſt us. They complain'd that the former Ages have taken from them many of their Rents, have robbed them of their Power and Juriſdiction, and even in the Church it ſelf, and form of Gods Worſhip, have brought in ſome things that require Reformation; but as the deeds of theſe times, at the leaſt the beginning thereof, were full of notour and tumultuary diſorder, ſo ſhall I never think it will prove for the good either of Gods Service or the Kings, by the ſame ways or manner of dealing to preſs to rectifie what was then done amiſs. We have a wiſe and judicious Maſter, who will nor can urge nothing in this poor Kingdom, which may not be brought to paſs to His contentment; and I am moſt confident, if he ſhall be graciouſly pleaſed to hear His faithful Servants inform Him of the truth, he ſhall direct that which is juſt and right; and with the ſame aſſurance I do promiſe Him Obedience. The Intereſt your Lordſhip hath in this poor Kingdom, but more particularly the Duty you owe to His Majeſty, and the true reſpect I know you have ever carryed to His Majeſties Honour, and the good of His Service, makes me thus bold to acquaint your Lordſhip with this buſineſs, which in good faith is by the folly and miſ-government of ſome of our Clergy-men, come to that height, that the like has not been ſeen in this Kingdom of a long time; but I hope your Lordſhip will take in good part my true meaning, and ever conſtruct favourably the affections of*

Auguſt 7. 1637. Dr. Burnets Memoirs of Duke Hamilton.

Traquair.

Edenburgh Auguſt 7. 1637.

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As concerning the carriage of the Biſhops and Clergy in *Scotland* before theſe Tumults happened, there is a Learned Perſon of that Nation, a friend to Moderation in Epiſcopal Government, and diſliking violent Actions of the Covenanters, who hath lately written a * Hiſtory called *Memoirs*, wherein, among other remarkable things he hath this Paſſage.

* Memoirs of the Dukes of *Hamilton*, *fo.* 29, 30, 31.

THe People of *Scotland* had drunk in a deep prejudice againſt every thing that ſavoured of Popery: this the Biſhops judged was too high, and therefore took all means poſſible to leſſen it, both in Sermons and Diſcourſes, mollifying their Opinions, and commending their Perſons, not without ſome reflections on the Reformers. But this was ſo far from gaining their Deſign, that it abated nothing of the Zeal was againſt Popery, but very much heightened the rage againſt themſelves as favouring it too much.

There were alſo ſubtile Queſtions ſtarted ſome years before in *Holland* about Predeſtination and Grace; and *Arminius* his opinion, as it was condemned in a Synod at *Dort*, ſo was generally ill reported of in all Reformed Churches, and no where worſe than in *Scotland*: But moſt of the Biſhops, and their adherents, undertook openly and zealouſly the defence of theſe Tenets. Likewiſe the *Scottiſh* Miniſters and People had ever a great reſpect to the Lords-day, and generally the Morality of it is reckoned an Article of Faith among them: but the Biſhops not only undertook to beat down this opinion, but by their Practiſes expreſſed their neglect of that day; and after all this they declared themſelves avowed Zealots for the Liturgy and Ceremonies of *England*, which were held by the Zealous of *Scotland* all one with Popery; upon theſe Accounts it was that they loſt all their Eſteem with the People.

Neither ſtood they in better terms with the Nobility, who at that time were as conſiderable as ever *Scotland* ſaw them; and ſo proved both more ſenſible of Injuries, and more capable of reſenting them. They were offended with them, becauſe they ſeemed to have more Intereſt with the King than themſelves had, ſo that favours were mainly diſtributed by their recommendation: they were alſo upon all affairs, nine of them were Privy-Councellors, divers of them were of the *Exchequer*, *Spottiſwood*, Arch-biſhop of St. *Andrews* was made Chancellor, and *Maxwell* Biſhop of *Roſs* was fair for the Treaſury, and engaged in a high rivalry with the Earl of *Traquair*, then Treaſurer, which tended not a little to help forward their ruine. And beſides this they began to pretend highly to the Tyths and Impropriations, and had gotten one *Learmouth* a Miniſter preſented Abbot of *Lindoris*, and ſeemed confident to get that State of Abbots, with all the Revenue and Power belonging to it, again reſtored into the hands of Church-men, deſigning alſo, that according to the firſt Inſtitution of the Colledge of Juſtice, the half of them ſhould be Church-men.

This could not but touch many of the Nobility in the quick, who were too large ſharers in the Patrimony of the Church, not to be very ſenſible of it.

They were no leſs hateful to the Miniſtry, becauſe of their Pride, which was cryed out upon as unſupportable. Great Complaints were

were alſo generally made of Simoniacal Pactions with their Servants, which was imputed to the Maſters as if it had been for their advantage, at leaſt by their allowance: They alſo exacted a new Oath of *Intrants*, (beſides what was in the Act of Parliament for obedience to their Ordinary) in which they were obliged to obey the Articles of *Perth*, and ſubmit to the Liturgy and Canons: They were alſo making daily In-roads upon their Juriſdiction, of which the Miniſters were very ſenſible, and univerſally their great rigour againſt any that favoured of *Puritaniſm*, together with their medling in all Secular Affairs, and relinquiſhing their Dioceſſes to wait on the Court and Council, made them the Object of all Mens fury. 13 *Caroli.*

But that which heightned all to a *Criſis*, was their adviſing the King to introduce ſome Innovations in the Church by His own Authority; things had proſpered ſo ill in general Aſſemblies, that they thought of theſe no more; and in the Parliament 1633. that ſmall addition to the Prerogative, that the King might appoint what *Habits* He pleaſed to the Clergy, met vigorous oppoſition, notwithſtanding the King ſeemed much concerned for it, thoſe who oppoſed it being ſharply taken up, and much neglected by His Majeſty, which ſtuck deep in their Hearts, the Biſhops bearing all the blame of it.

At this time a Liturgy was drawn for *Scotland*, or rather the *Engliſh* re-printed with that Title, ſave that it had ſome Alterations, which rendred it more invideous and leſs ſatisfactory; and after long conſulting about it, and another Book of Canons, they were at length agreed to, that the one ſhould be the form of the *Scottiſh* Worſhip, and the other the Model of their Government, which did totally vary from their former Practiſes and Conſtitutions, and as if all things had conſpired to carry on their ruine; the Biſhops not ſatisfied with the General High Commiſſion-Court, procured Warrants from the King for ſetting up ſuch Commiſſions in their ſeveral Dioceſſes, in which, with other Aſſeſſors, Miniſters and Gentlemen, all of their own nomination, they might puniſh Offenders.

That was put in Practiſe only by the Biſhop of *Galloway*, who though he was a Pious and Learned Man, yet was fiery and paſſionate, and went ſo roundly to work, that it was cryed out upon as a Yoak and Bondage, which the Nation was not able to bear.

The Bailiffs of *Edenburgh* troubled (at leaſt ſeemingly) at the Tumult on the 23*d* of *July*, writ this enſuing Letter to the Arch-biſhop of *Canterbury*.

Auguſt 19. 1637. A Letter from the Magiſtrates of *Edenburgh*, concerning the Tumult, to the Arch-biſhop of *Canterbury*.

Moſt Reverend Father in God, and our very good Lord,

WE *regrait from our Hearts that Tumult which did fall out in our Churches, that day of in-bringing of the Service-Book, wherein now theſe of His Majeſties Council, who have laboured the tryal thereof, will give teſtimony of our Innocency ſince that time, and how, ſince the riſing of His Majeſties Council in this ferial time, we have daily concurred with our Ordnary, and our Miniſtry for ſetling of that Service-Book, as the Right Honourable the Earl of* Traquair, *Lord Treaſurer, with the Biſhops of* Galloway *and* Dunblane, *will bear witneſs,*

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witneſs, who have ſpared neither pains nor attendance to bring that purpoſe to a good Concluſion.

And although the poverty of this City be great, (being almoſt exhauſted with publick and common works) yet we have not been wanting to offer good means, above our power, to ſuch as would undertake that Service; and in all things wherein we have been required, we have ever been ready, really to approve our ſelves obedient, and Loyal Subjects to His Majeſty in all His Royal Commandments, which we have ever vowed to obſerve to our lives end. And being infinitely obliged to your Graces Favours, we now preſume, by theſe Lines, to give your Grace that aſſurance of obedience upon our part in this purpoſe, and in all other purpoſes, wherein we may contribute to the advancement of His Majeſties Service, or can be expected of good Subjects, whereof (if His Majeſty by your Grace ſhall be pleaſed to reſt aſſured, whatſoever any other ſhall ſuggeſt) we will accept it from you as a great accumulation of favour; for all which your Grace ſhall ever find us moſt thankful Remembrancers, and moſt ready really to expreſs our thankfulneſs, when-ever we ſhall be made ſo happy, as your Grace ſhall have occaſion to uſe our Service. Thus from our Hearts wiſhing you all Happineſs, we kiſs your Graces Hands,

Edenburgh this 19*th* of *Auguſt* 1637.

Your Graces moſt Affectionate and Humble Servants the Bailiffs of *Edenburgh*,

J. Cockrane, *An. Ainſlie*, *J. Smith*, *C. Hamilton*, } Bailiffs.

Divers Miniſters and People furiouſly oppoſed the reading of the Service-Book, and preſented this following Petition to the Lords of the Council; beginning thus:

My Lords of Secret Council. Unto your Lordſhips humbly meaus and ſhews,

'WE your Subjects Mr. *Alexander Henderſon*, Miniſter at *Lenchars*, Mr. *John Hamilton*, Miniſter at *Newburne*, and Mr. *James Bruce*, Miniſter of *Kings-Barnes*, that where we were required of late, by the Moderator of our Presbytery, to receive two Copies of the new Book of Common-Prayer, and declaring our ſelves willing, each of us to receive any of the ſaid Books to read, that we might know what is therein contained before we could promiſe to practiſe it; alledging, that in the matters of Gods Worſhip we were not bound to blind obedience. It was refuſed by us, and taken out of ſome of our Hands; and yet we are now charged with Letters of *Horning*, decreed by your Lordſhips upon a Narrative, that we have refuſed the ſaid Books out of Curioſity and Singularity. To provide each one of us two of the ſaid Books for the uſe of our Paroches, which hath made us, who were never before acquainted with any Charge from Authority, and knowing no other way ſo juſt and void of offence to have re-

courſe

13 *Caroli.*

'courſe to your Lordſhips; moſt humbly entreating, that the 'Charge may be ſuſpended for the Reaſons following. *Firſt*, Be- 'cauſe this Book is neither warranted by the Authority of the Ge- 'neral *Aſſembly*, which are the *Repreſentative Kirk* of this King- 'dom, and hath ever ſince the Reformation given directions in 'matters of Gods Worſhip, nor by any Act of Parliament, which 'in things of this kind hath ever been thought neceſſary by His Ma- 'jeſty, and the Eſtates. *Secondly*, Becauſe the Liberty of the true 'Kirk, and the form of Worſhip, and Religion, received at the 'Reformation, and univerſally practiſed ſince, were warranted by 'the Acts of the General Aſſemblies, and divers Acts of Parlia- 'ment, eſpecially of the Parliament 1527. and the late Parliament '1633. *Thirdly*, The Kirk of *Scotland* is a free and Independent 'Kirk, and her own Paſtors ſhould be moſt able to diſcern and di- 'rect what doth beſt beſeem our meaſure of Reformation, and what 'may ſeem moſt for the good of the People. *Fourthly*, It is not 'unknown to your Lordſhips what diſputing, diviſion, and trouble 'hath been in this Kirk, about ſome few of the main Ceremonies 'contained in this Book, which being examined, as we ſhall be 'ready (a competent time being aſſigned by your Lordſhips) to 'ſhew, will be found to depart far from the form of Worſhip and 'Reformation of this Kirk, and in Points moſt material to do all 'near to the Kirk of *Rome*; which for Hereſies in Doctrine, Su- 'perſtition and Idolatry in Worſhip, Tyranny in Government and 'Wickedneſs every way, is as Antichriſtian now as when we came 'out of her. *Fifthly*, The People have been otherwiſe taught by 'us, and our Predeceſſors in our Places, ever ſince the Reforma- 'tion, and ſo it is likely they will be found unwilling to the change 'when they ſhall be aſſayed, even where their Paſtors are willing. 'In reſpect whereof the ſaid Letters of *Horning*, whoſe effect and 'execution thereof ought to be ſuſpended *ſimpliciter* in time com- 'ing. Therefore we beſeech your Lordſhips, that we may have 'Letters direct, charging the Perſons who have cauſed this Charge 'againſt us to compeir perſonally, and to bring and produce the ſaid 'Letters of *Horning*, with the Execution and Indorſations thereof 'before your Lordſhips at a certain day, to be ſeen and conſidered of, 'and in the mean time to ſuſpend them, and your Lordſhips 'Anſwer, We humbly pray.

To which this ſhort Anſwer was given by the Biſhop of *Roſs*; letting the Petitioners know, That whereas they pretend ignorance of what is contained in the Book, it appears by their many Objections and Exceptions in all parts of it almoſt, that they are too well verſed in it, but have abuſed it pitifully; the Biſhop aſſerting, that not the General Aſſembly, (which conſiſts of a Multitude) but the Biſhops have the Authority to govern the Church, and are the repreſentative Church of the Kingdom. That they will never be able (do what they can) to prove what is contained in the Service-Book to be either Superſtitious or Idolatrous, but that it is one of the moſt Orthodox and perfect Liturgies in the Chriſtian Church.

Now

An. 1637.

Words preſcribed at the delivery of the Sacrament according to the *Engliſh* Liturgy.

NOw that which ſtartled the *Scots* moſt, as to the Service-Book in Point of Popery, was concerning the words preſcribed therein to be uſed at the receiving of the Sacrament in the very delivery of the Bread and Wine after Conſecration, wherein there was this Alteration made by way of an *Index Expurgatorius*, (as the *Scots* termed it;) for the ancient *Engliſh* form ſtood thus in the Liturgy, *viz. The Body of our Lord Jeſus Chriſt which was given for thee, preſerve thy Body and Soul unto Everlaſting Life. And take and eat this in Remembrance that Chriſt dyed for thee, and feed on him in thy Heart by Faith with Thankſgiving.*

The Blood of our Lord Jeſus Chriſt which was ſhed for thee, preſerve thy Body and Soul unto Everlaſting Life. And drink this in Remembrance that Chriſts Blood was ſhed for thee, and be thankful: But the latter words, *viz. And take and eat this in Remembrance that Chriſt dyed for thee, and feed on him in thine Heart by Faith with Thankſgiving*, in the one; *And drink this in Remembrance that Chriſts Blood was ſhed for thee, and be thankful*, in the other, were left out; and the Party Receiving is only to ſay *Amen.* And accordingly the ſaid latter Paſſages were omitted in the Printed Service-Book; which remarkable Alteration gave the *Scots* occaſion of Jealouſies, that it was done to conform to the very *Roman Miſſal*, and order of the *Maſs*, as followeth.

But part of the words at delivery of the Sacrament, omitted in the *Scotch* Liturgy.

Viz.	The *Roman Miſſal*, viz.
The Body of our Lord Jeſus Chriſt, which was given for thee, preſerve thy Body and Soul unto Everlaſting Life; to which the Party ſhall ſay *Amen.*	*Corpus Domini noſtri Jeſu Chriſti cuſtodiat Animam meam in Vitam Æternam*, Amen.
The like to *the Blood of our Lord Jeſus Chriſt which was ſhed for thee, preſerve* &c. *to Life Eternal*, Amen.	*Sanguis Domini noſtri Jeſu Chriſti cuſtodiat Animam meam in Vitam Æternam*, Amen.

Concerning *Tranſubſtantiation.*

Hence the *Scots* apprehended it was a Deſign to introduce a *Tranſubſtantiation* of the Bread and Wine into Chriſts very Body and Blood, and an External Receiving of them with the Mouth, to make a compleat Sacrifice of the *Maſs*, which theſe Expunged Clauſes do expreſly contradict; and takes away all opinion of any *Tranſubſtantiation*, or Corporal Eating of Chriſts Body, or drinking his Blood in the Sacrament

The Arch-biſhop of *Canterbury* writes a Letter to the Arch-biſhop of St. *Andrews*, dated *September* 4. 1637. and ſo much of it as concerneth the late Tumults about the Service-Book in *Scotland*, followeth in theſe words.

Touching

13 Caroli.

The Arch-biſhop of *Canterburies* Letter to the Arch-biſhop of St. *Andrews.*

TOuching the Tumult, I can ſay no more than I have already, and for the caſting of any fault upon your Grace, and the reſt of your Brethren, as if the thing were done precipitately, I think few Men will believe that; but that which is thought here is, that though you took advice among your ſelves, yet the whole Body of the Council was not acquainted with all your determinations, nor their advice taken, nor their Power called in for aſſiſtance, till it was too late; and that after the thing was done, you conſulted apart, and ſent up to the King without calling a Council, or joyning the Lay-Lords with you; whereas all was little enough in a Buſineſs of this nature, and ſo much oppoſed by ſome Factious Men gathered (it ſeems) purpoſely together at Edenburgh, *to diſturb this Buſineſs: And indeed, my Lord, you could not in this particular have engaged the Lay-Lords too far; and if any Lord here ſpeak too much when he thought the Service might have been received throughout all that Kingdom in one day, I hope your Grace falls as much too ſhort on the other ſide; for I hope it will be ſetled in far leſs time than ſeven years. And whereas you write, that the fault is moſt in your Miniſters, I eaſily believe that to be true, but then they ſhould have been delt withal before-hand, and made pliable, eſpecially in* Edenburgh, *or elſe ſome others appointed in the room of ſuch as diſliked. And ſince your Grace is of opinion, that a ſharper courſe would do more good, and that you would have taken ſuch with Mr.* Ramſey, *(if my Lords had not altered your opinion) His Majeſty leaves you to take that courſe both with him and others as you ſhall find fitteſt for His Service, and the Churches. And for the Poſtſcript, I am ſorry as well as you for Mr.* Rollock, *and that is all I have to ſay of him; ſo deſiring God to bleſs you through theſe Troubles, I leave you,* &c.

W. Cant,

September 4. 1637.

On *September* 11. the Arch-biſhop of *Canterbury* writ another Letter to the Earl of *Traquair*, wherein he takes notice, that the Puritan Party receives incouragement by the diſturbance given to the reading of the Service-Book.

Arch-Biſhop of Canterburies *Letter to the Lord* Traquair, September 11. 1637.

My very good Lord,

I Have received your Letter of Auguſt 26. *and am very glad to read in them, that mine came ſafe to you, by your Servant: For the Buſineſs, I had ſome little Inkling given me by my Lord* Strivling *about the ſtay of the Service-Book; but till I read your Letter, I did not believe it poſſible that way ſhould be given to an Interdiction, eſpecially conſidering how ſtrongly you had ever oppoſed it, and withal how weak and unconſallable (at leaſt in my Judgment) the thing it ſelf was, for they could not but foreſee, that that courſe would add a great deal of heartning and encouragement to the Puritan Party: And therefore 'tis*

no

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no wonder, such Lords, and others as were ill-affected to the Liturgy, were easie in giving way to that Council, which they could not but see would advance their own ends; but that my Lord of Ross *should give the advice, and my Lord of St.* Andrews *follow it with such stiffness, may be a wonder to any man that knows them and the Business.*

My Lord St. Andrews *hath lately written to me, that my Lord of* Ross *was gone into his Diocess; but for my part, I did not think that all the rest would have gone away, and left the Business; for they cannot but think, that the adverse part would make use of the present time to put further difficulties upon the Work; and therefore they should have been as careful to uphold it, my Lord of* Ross *especially, whose Hand hath been as much in it as the most. But since they are gone, His Majesty takes it extreamly well from my Lord of* Edenburgh, Galloway, *and* Dunblane, *that they stay and attend the Business as well as they can; but he hath expresly commanded me to give your Lordships thanks for staying with them, and keeping them so well in heart; for as the Business is now foyled, if you do not stick close to Gods and the Kings Service in it, it will certainly suffer more than it is fit it should.*

His Majesty likewise takes it exceeding well from your Lordship, that you have dealt with the City of Edenburgh *for maintenance for such as shall take upon them to read the Liturgy; and takes it well from the City it self, from whom I have received a very fair discreet Letter, which I have shewed His Majesty, and writ the City an Answer by this Return, and given them His Majesties thanks, which indeed He commanded me to do very heartily: And in truth they deserve it, especially as the Times stand.*

As for the Ministers of Edenburgh, *I know the refusal of Mr.* Ramsey *and Mr.* Rollock, *but that any other of them stuck at it, or that any Bishops seem not to be forward, is more than I heard till now; but for that of Mr.* Ramsey, *or any of the Bishops that would have somewhat amended, if that should be yielded unto now (unless they should be able to give such reason against it, as I know they cannot) it would mightily dishonour the King, who to my knowledge hath carefully look'd over, and approved every word in this Liturgy; and I doubt it would utterly destroy the Service it self, for while one man out of a humor dislikes one thing, and another another thing; by that time every mans dislike were satisfied, I doubt there would be but little left to serve God with: Besides, it is not improbable, but that some men would be as earnest to have the self-same thing kept in, which others would have so fain thrust out, what e're it be; and that may make it grow up into a formal contestation upon some particulars, and quite distemper the Service. But whereas you write, That some Bishops speak plainly, that if their opinions had been craved, they would have advised the amending of some thing: Truly for that, and in that way, I would with all my heart they had seen it; and why my Lord of St.* Andrews, *and they which were trusted by the King, did not discreetly acquaint every Bishop with it, (considering that every Bishop must be used in their several Dioceses) I know no reason; and sure I am there was no prohibition upon them. And since I hear from others, that some exception is taken, because there is more in that Liturgy in some few Particulars, than is in the Liturgy in* England, *why did they not then admit the Liturgy of* England *without more ado? But by their refusal of that, and the dislike of this, 'tis more than manifest they would have neither, perhaps*

13 *Caroli.*

perhaps, yea, none at all were, they left to themſelves. But, my Lord in your ſelf only, and in your ear, a great favour you ſhould do me, if you will get my Lord of Galloway *to ſet me down in brief Propoſitions, without any further Diſcourſe, all the exceptions that are taken againſt the Liturgy by* Ramſey, Rollock, *or any other; and I could be content to know who the Biſhops are, who would have amended ſomething, had they been adviſed with, and what that is which they would have ſo amended,* &c.

September 11. 1637. Will. Cant.

On the 25*th*, and 26*th*. there hapned ſome further diſturbances by the confluence of the People, as the Lords of the Secret-Council were ſitting two days together, with which the Magiſtrates of *Edenburgh* ſeemed to be much diſſatisfied; and having at laſt quieted the People, thought fit to write this enſuing Letter to the Arch-Biſhop of *Canterbury*, dated the 26*th*. of *September* 1637.

A Letter from the Magiſtrates of *Edenburgh*, to the Arch-Biſhop of *Canterbury*.

Moſt Reverend Father in God, and our very Good Lord.

WE do receive your Graces kind Letter, and from our hearts we do render your Grace moſt hearty thanks, and as we have hitherto found your ſpecial favour in this matter, concerning the lately imprinted Service-Book, where-anent we did write to your Grace formerly, ſhewing our dutiful and obedient reſolution, not only in our ſelves, but in the greateſt and beſt part of our Inhabitants, of whom from time to time, as we have had moſt confident aſſurance, ſo now we muſt again become new Suitors at your Graces hands, to receive from us a true information of the difference of the preſent time, and of that when we did preſume to write the occaſions thereof: which is, That ſince our laſt there hath been ſuch an innumerable confluence of people from all the corners of this Kingdom, both of Clergy and Laity, and of all degrees, by occaſion of two Council-days, and ſuch things ſuggeſted to our poor ignorant people, that they have razed out what we by great and continual pains had imprinted in their minds, and diverted them altogether from their former reſolutions; ſo that now when we were urged by our ſelves alone, we could not adventure, but were forced to ſupplicate the Lords of Council to continue us in the ſtate they had done the reſt of the Kingdom, having hitherto forborn, either to combine with them, or to countenance them in their Supplications; yet we will not forbear to do our Maſters Service to our power, but ſhall ſtudy to imprint in their minds, what hath been taken away: in the interim we will humbly beg your Graces Favour and Interceſſion with His Majeſty, that we may be kept ſtill in His Favour, which we do eſteem our greateſt earthly felicity, and that what courſe ſhall be taken with the reſt of this Kingdom in that matter, who have preſented many ſupplications, and with whom we have in no ways combined, that the ſame and no other may be taken with us, wherein we are confident to prevail, as much as any other within the Kingdom; and in all things ſhall endeavour nothing more, than that we may approve our ſelves moſt du-

An. 1637. *tiful and obedient Subjects. Thus relying upon your Graces Favour, as our moſt aſſured refuge, we kiſs your Graces hands, and reſt,*

Your Graces moſt Affectionate and Humble Servants, the Bayliffs of *Edenburgh*,

Edenburgh this 26*th* of *Septemb.* 1637.

Ch. Hamilton.
James Rucheid.
J. Cochrane.
J. Smith.
} Bayliffs.

All things at preſent ſeemed to be quiet.

ALL Buſineſs now for a time ſeemed to be huſhed and calmed, by reaſon of the long Vacation, which in that Kingdom beginneth always on *Lammas* day *Auguſt* the firſt, and the Harveſt which drew all ſorts of People from *Edenburgh*, except the Citizens; ſo that little or nothing was done between the laſt of *July* and firſt of *October*, ſave that ſome Miniſters, as is before mentioned, Petitioned the Lords of the Council for ſuſpending the Letters whereby they were charged to receive the Service-Book.

A great Conflux of People at *Edenburgh*.

But as ſoon as Harveſt was done, the conflux of all ſorts of the Kings Subjects, Nobility, Gentry, Miniſters and Burgeſſes, from all parts of that Kingdom, came to be ſo great at *Edenburgh*, and after ſuch a tumultuous manner, as that a preſent inſurrection was juſtly feared, which forced the Council (then aſſembled at *Edenburgh* upon the day before appointed by them, *viz.* the 17*th* of *October*) to make three Proclamations, the firſt to give notice, that on that day nothing ſhould be treated of at the Council-Table concerning Church-buſineſs, until the Lords might ſee the times and meeting of His Majeſties Subjects more quiet and peaceable; and therefore commanded all who were come thither about any ſuch buſineſs, peaceably to repair to their own homes within twenty four hours, under the pains expreſſed in the ſaid Proclamation. A ſecond was for removing the Seſſion (which in *England* is called the *Term*) from *Edenburgh* to *Linlithgow* for fear of preſent danger, if this great concourſe of People ſhould not ſome way be diverted and divided, eſpecially conſidering that thoſe of *Edenburgh* were now apparently perverted and become very ill-affected to the King and Council. A third Proclamation for bringing in and burning a certain ſeditious Book newly diſperſed amongſt our Subjects there, tending to Sedition and the Diſgrace of our Eccleſiaſtical Government here in *England*. All which Proclamations bore date the 17*th*. of *October* 1637, and were as followeth.

Three Proclamations publiſhed.

The

13 *Caroli.*

The first Proclamation dated *October* 17. 1637.

FOrasmuch as it hath pleased the Kings Majesty, upon divers good Respects and Considerations, to give Warrant and Direction to the Lords of His Majesties Privy-Council, for dissolving the meeting of the Councel this day, so far as concerneth matters of the Church. And that every one that hath come to attend this business, repair to their own dwellings, except such persons as shall make known to the said Lords of Council just cause of stay, for their particular affairs: therefore the said Lords according to His Majesties Special Warrant and Direction sent unto them, have dissolved, and by the tenour hereof, do dissolve the Meeting of the Council this day, in so far as concerns the business above written; and ordains a Macer of Councel to pass to the Mercate Cross of Edenburgh, and to make publication hereof; and to command every one that hath come hither to attend this business, to repair home to their own Dwellings within twenty four hours after the Publication hereof, except such persons as shall make known to the said Lords, just cause of their further particular affairs in manner aforesaid, under pain of Rebellion, and of putting them to the Horn, with certification to them, that if they fail they shall be denounced Rebels, and put to the Horn, and all their moveable Goods escheat to His Majesties use.

The Concourse of People being great at *Edenburgh* are to depart the City, fearing more Tumults, *&c.*

The second Proclamation dated *October* 17. 1637.

FOrasmuch as it hath pleased the Kings Majesty, upon divers great and good Considerations known to His Majesty, to remove his Councel and Session from the City of Edenburgh to the Burgh of Dundee: And whereas it is inconvenient at this time to remove it so far, His Majesty is graciously pleased, that this next Session shall be holden at the Burgh of Linlithgow, and the next after the Ordinary vacants at the Burgh of Dundee, and there to remain, during His Majesties pleasure: And therefore the said Lords, according to His Majesties special direction, ordains Macers or Officers of Armes to pass and make publication hereof to all his Majesties good Subjects by open Proclamation at all places needful, whereby they can pretend no ignorance thereof, but may prepare themselves to attend at Linlithgow and Dundee accordingly.

To remove the Session to *Linlithgow*, after to *Dundee*.

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A third Proclamation dated *October* 17. 1637.

A Book Printed against English Popish Ceremonies, obtruded upon the Kirk of *Scotland*, called in.

FOrasmuch as the Kings Majesty is credibly informed, that there is a certain Book entituled, A Dispute against the English Popish Ceremonies, obtruded upon the Kirk of *Scotland*; and hath been sent abroad and dispersed in this Kingdom, purposely to stir the hearts and affections of the Subjects from their due Obedience and Allegiance: And therefore it hath pleased His Majesty to give Order and Direction to his Councel, that diligent inquiry and search be made for the said Book. And for this effect the said Lords ordains Letters to be directed to make intimation and publication to all His Majesties Subjects, that such of them as have any of the said Books, bring in the same to the Lords of His Majesties Privy-Council, betwixt the date of His Proclamation and the day of and the said Books being brought in, that the same be publickly burnt, certifying all His Majesties Subjects, if any of those Books shall be found, or known to have been with any of them, after the time aforesaid, that they shall incur the like Censure and Punishment, as the Author may be found to deserve, for any thing contained in that Book.

A new Tumult at *Edenburgh*.

UPon the publishing of these three Proclamations, and the intended removal of the Session or Term from *Edenburgh* to *Linlithgow*, a new Tumult fell out in *Edenburgh* upon *October* 18. against the Earl of *Traquair* and some of the Bishops, whom the People in their fury went about to have killed; (as it was apprehended) and the Bishop of *Galloway* as he was peaceably passing along the street towards the Council-house, suddainly an inraged multitude surrounded him, and followed him with fearful cursing and exclamations close to the Council-dore, where he was again encountred a-fresh with another multitude, who watched and lay in wait for his coming thither, and whose fury exceeded words; for in all probability the Bishop had been pulled in pieces by them, if by Divine Providence he had not been defended by *Francis Steward*, who with much ado, got the Bishop within the Dores of the Council-house, where the Lord Chief Justice staid for him: but when he was there, that place of Highest Reverence within that Kingdom, was no Sanctuary for him; for they continued demanding his person, and threatning him with death, the report hereof, and the danger of their Lords life was brought by some of the Bishops Servants presently to the Earl of *Traquair*, Lord Treasurer, and the Earl of *Wigton*, one of the Lords of the Council, who were then at a Lodging not far from thence; they came presently with their followers to the relief of the Bishop, but very hardly (for the croud of the Mutiners) could approach the Council-house where he was; at last when with much ado they got entrance, they found themselves in no better case then the Bishop was, for the peoples fury meeting with no proportionable resistance, increased the more; the Lords thus beset in the Council-house, sent privately to the Lord Provost,

Provoſt, Bayliffs and Council of *Edenburgh*, (who were then aſſembled in their own Council-houſe) requiring them to come to their reſcue, and to take ſome preſent order for their ſafety: they by one Sir *Thomas Thompſon*, who indeed was an eye witneſs of the truth of it returned this Anſwer, that they were in the ſame, if not a worſe caſe themſelves, if the Lords without, did not preſently pacifie the inraged multitude; that the whole ſtreets were peſtered with diſorderly people; that their Council-houſe was beſet without and thronged within, with their own threatning Citizens, who had vowed to kill all within the Houſe, unleſs they did preſently ſubſcribe to a Paper preſented to them, which for fear of their lives they were forced to do: which Paper contained theſe three particulars. 13 *Caroli.*

Firſt, That they ſhould joyn with them in oppoſition to the Service-Book, and in petitioning us for that purpoſe.

Secondly, That by their Authority they ſhould preſently reſtore unto their Places and Pulpits, Mr. *Ramſey* and *Rollock* their two ſilenced Miniſters.

Thirdly, That they ſhould reſtore unto his place one *Henderſon*, a ſilenced Reader. No better anſwer being returned, the Lord *Treaſurer* and the Earl of *Wigton* with their Followers, reſolved to go up to the Town Council-houſe, and to uſe the uttermoſt of their Authority, or (if that found no reſpect) their beſt perſwaſions for ſetling the preſent Sedition: when they came thither, they found the Magiſtrates very much diſcompoſed, and greatly perplexed; as much doubting whether ever they ſhould eſcape from the place with their lives, yet they preſently entred into conſultation with them, about what was fitteſt to be done in ſuch an exigent; and finding now that the publick divulging of that Paper, which the Magiſtrates and Council of the City had ſubſcribed, and that the open proclamation of it throughout all their turbulent Troops, and at the Croſs, had a little aſſwaged their furious rage, the Lords begun to adviſe with the Magiſtrates what was beſt to be done for the ſafety of the Biſhop of *Galloway*? whom they had left beſieged in the Council-houſe, it was thought fit by all, that the Lords ſhould return to our Council-houſe, and contain themſelves therein till the Magiſtrates might try what they could do for calming the Commotion in the Streets: but no ſooner had the Lords preſented themſelves to the Streets, but they were received with ſuch violence, as they were forced to retire, untill ſuch time as two of the Bayliffs, with their Sergeants and Officers, and ſuch others as they got to attend them, accompanying the Lords, and repeating to the Multitude what had been yielded to in the Paper exhibited to them, a little way was made at firſt; but preſently when they entred upon the Great-Street, the Barbarous Multitude run moſt inragedly upon them; their out-crys were horrible and confuſed, but were (as much as in ſuch a confuſion could be diſtinguiſhed) *God defend all thoſe who will defend God's Cauſe, and God confound the Service-Book, and all the maintainers of it.* The Lords being in preſent and eminent danger, aſſured the People that they would repreſent their grievances to His Majeſty; for when they perceived that the People refuſed to obey any Commandment which was laid upon them in the Kings Name, and that they ſlighted,

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ſlighted their requiring of them to retire unto their own Houſes, and to behave themſelves as quiet and good Subjects, under pain of His Majeſties higheſt diſpleaſure, they were glad then to take themſelves to entreaties and plauſible perſwaſions, but all in vain; for the People ſtill increaſed their fury, and that to ſuch a height, as that the Lord *Treaſurer* was thrown down, his Hat, Cloak, and White-Staff pulled from him, ſo that if by the ſtrength of ſome about him, he had not been pulled up preſently again upon his Feet, he had undoubtedly been trod to death; and in that poſture without Hat or Cloak, like a notorious Malefactor, was he carried by the Croud to the Council-houſe-dore, where the Biſhop of *Galloway* and others of the Council were impriſoned in great fear, expecting the Lords return for their relief.

Not long after the Provoſt and Bayliffs came thither to them, told them they had uſed their uttermoſt power and perſwaſions with the beſt, ableſt, and of the prime eſteem of all their Citizens, for the appeaſing of the preſent Tumult, and ſecuring their Lordſhips perſons, but could find no concurrence nor obedience. Whereupon the Lords reſolved to ſend for ſome of the Nobility and Gentry, and others who were now frequently aſſembled for aſſiſting the Petition againſt the Service-Book, to trie what help they would or could contribute for quieting the inraged People, and what aſſiſtance they might expect from them in freeing them from the preſent danger. They being ſent for, came to the Lords, and declared unto them how much they were unſatisfied with the preſent mutiny, offered their Perſons and Powers for ſecuring them from all violence, which the Lords in the Council-houſe accepting of, with much ado (being guarded by them whom the People would not offend) the Lord *Treaſurer* got to the Palace at *Haly-Rood-Houſe*, and the Biſhop of *Galloway* to his Lodging: but the Lord *Provoſt* was again ſet upon, as he was entring his own Houſe, and was ſo preſſed upon by the Multitude that they crouded with him into his own Yard, railing upon him and throwing Stones at his Windows, until ſome of his Servants diſcharging a Piece, which had nothing but Powder in it, they retired for fear.

This Morning Storm being a little blown over, the Council in the Afternoon met at the Palace at *Haly-Rood-Houſe*, and commanded a Proclamation preſently to be made at the Croſs of *Edenburgh*, the tenour whereof here followeth.

At *Haly-Rood-Houſe* the 18*th.* of October 1637.

A Proclamation requiring the Multitude to keep the peace.

FOraſmuch as a number of the Lords of His Majeſties Privy-Council, as likewiſe the Town Council of Edenburgh, being this day conveened in their ſeveral Judicatories, for His Majeſties ſpecial affairs and ſervice, they were moſt rudely interrupted in the Courſe of their proceedings, by a tumultuos gathering of the promiſcuous and vulgar Multitude, by whom His Majeſties Council and Servants in an open way was ſhamefully environed; which being a matter very diſgraceful to His Majeſties Authority and Lawfull Government, and which in the conſequence thereof may pro-

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duce dangerous effects, if the like be not prevented in the time to come: therefore the Lords of the Secret Council, according to the duty of their place and charge incumbent to them, ordains a Macer of Council to paſs to the Mercate-Croſs of Edenburgh, and there by open Proclamation to diſcharge all publick Gatherings and Convocations of His Majeſties Subjects, within the City of Edenburgh, and upon the Streets thereof; as likewiſe all private meetings tending to faction and tumult; and in His Majeſties Name and Authority, to command all His Majeſties Lieges and Inhabitants within the ſaid City, to contain themſelves in peace and quietneſs: and for that effect to keep their Houſes, except when their lawful buſineſs doth otherwiſe call them, under all higheſt pain and charge, that by rigour of Law can be inflicted upon the contraveeners of the premiſes in manner above expreſſed. 13 *Caroli.*

Notwithſtanding this Proclamation, the next Council-day the People of *Edenburgh* ſent their Commiſſioners publickly to the Council-Table, to require that their Miniſters and Reader might be reſtored to them, and that they might have aſſurance for the performance of what was lately promiſed to them by their Magiſtrates, meaning thoſe three things before mentioned, which they were enforced to agree unto by the former Tumult.

After theſe Tumults there were preſented to the Lord Chancellor and Council two Petitions; one in name of all the Men, Women, Children and Servants of *Edenburgh*, only againſt the Service-Book: And another in the name of the Noblemen, Gentry, Miniſters and Burgeſſes againſt the Service-Book, and Book of Canons: that to the Lord Chancellor was as followeth.

My Lord Chancellor.

Unto your Lordſhip humbly ſhews,

The Women and Childrens Petition to the Council, againſt the Service-book.

'WE Men, Women, and Children, and Servants, Indwellers 'within the Burgh of *Edenburgh*; That whereas we be- 'ing urged with this Book of Service, and having conſidered the 'ſame, we find many things therein ſo far different from that form 'of Gods publick worſhip, univerſally received and profeſſed with- 'in this Kindom; and we Burgeſſes being at our entry and ad- 'miſſion deeply ſworn for the maintenance thereof, that now 'makes our hearts to tremble, and our weak Conſciences will not 'ſuffer us to imbrace and practice this urged ſervice: We have 'this long time paſt winked at ſome former alterations, being put 'in hope that no further Innovations ſhould follow; but now we 'being oppreſſed with our juſt fears, to ſee our ſelves deprived 'of that liberty in ſerving God, which ever hath been approved 'by Church and Kingdom, in place whereof we are now like to 'be conſtrained to imbrace another, which hath neither been agi- 'tated nor received either by General Aſſembly or Parliament: in 'ſuch extremity we are moſt humbly to ſupplicate your Lordſhip, 'to conſider our preſent eſtate, that this buſineſs is a matter of ſo

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'great weight and conſequence, as ſhould not appear to be a need-
'leſs noiſe of ſimple Women; but it is the abſolute deſire of our
'hearts for preſervation of True Religion amongſt us, which is
'dearer to us than either Eſtate or Life: and therefore we do
'crave, that as the reſt of the Kingdom, ſo we may have a time to
'adviſe, and that your Lordſhips may find out ſome way, where-
'by we may be delivered from the fear of this and all other In-
'novations of this kind, and have the happineſs to enjoy the True
'Religion, as it hath been by the great mercy of God reformed in
'this Land, and authoriſed by His Majeſty, who may long and
'proſperouſly reign over us. And your Lordſhips anſwer.

The *Petition* to the Council follows of the Noble-men, Gentry, Miniſters, Burgeſſes, againſt the Service-Book, and Book of Canons.

My Lords of Secret Council.

October 1637. A Petition of the Noble-men, &c. againſt the Service-Book.

Unto your Lordſhips humbly ſhew,

'WE Noble-men, Barons, Miniſters, Burgeſſes, and Com-
'mons; That whereas we were in humble and quiet man-
'ner, attending a gracious Anſwer of our former ſupplications
'againſt the Service-Book impoſed upon us, and ready to ſhew
'the great inconveniences, which upon the introduction thereof
'muſt enſue; we are without any known deſert, far beyond our
'expectation, ſurprized and charged by publick Proclamation to de-
'part out of the Town within twenty four hours thereafter under
'pain of Rebellion; by which peremptory and unuſual charge,
'our fears of a more ſevere and ſtrict courſe of proceeding are aug-
'mented, and courſe of our ſupplication interrupted. Wherefore
'we are conſtrained, out of the deep grief of our hearts, humbly
'to remonſtrate; That whereas the Arch-Biſhops and Biſhops of
'this Realm, being intruſted by His Majeſty with the Govern-
'ment of the affairs of the Church of *Scotland*, have drawn up,
'and ſet forth, and cauſed to be drawn up and ſet forth and in-
'joyned upon the Subjects two Books; in the one whereof,
'called the Book of *Common-Prayer*, not only are ſown the ſeeds of
'divers Superſtitions, Idolatry and Falſe-doctrine, contrary to the
'true Religion eſtabliſhed within this Realm by divers Acts of
'Parliament; but alſo the Service-Book of *England* is abuſed,
'eſpecially in the matter of Communion, by Additions, Subſtra-
'ctions, interchanging of Words and Sentences, falſifying of Ti-
'tles, and miſplacing of Collects, to the diſadvantage of Reforma-
'tion, as the *Romiſh* Maſs is, in the more ſubſtantial points, made
'up therein, as we offer to inſtruct in time and place conveni-
'ent, quite contrary unto, and for reverſing the gracious inten-
'tions of the Bleſſed Reformers of Religion in *England*. In the
'other Book called, *Canons and Conſtitutions for the Government of*
'*the Church of* Scotland, they have ordained, that whoſoever ſhall
'affirm that the form of Worſhip inſerted in the Book of Com-
'mon Prayer and adminiſtration of the Sacraments, (whereof

'heretofore,

13 *Caroli.*

'heretofore and now we moſt juſtly complain) doth contain any 'thing repugnant to the Scriptures, or are Corrupt, Superſtitious 'or unlawful in the Service and Worſhip of God, ſhall be excommu-'nicated and not be reſtored, but by the Biſhop of the place, or 'Arch-Biſhop of the Province, after his repentance, and publick 'revocation of this his wicked error; beſides a hundred *Canons* 'more, many of them tending to the reviving and foſtering of abo-'liſhed Superſtitions, and Errors, and to the overthrow of our 'Church diſcipline, eſtabliſhed by Acts of Parliament, opening a 'Door for what further Invention of Religion they pleaſe to make, 'and ſtopping the way, which Law before did allow unto us, for 'ſuppreſſing of Error and Superſtition, and ordaining that where 'in any of the *Canons* there is no penalty expreſly ſet down, the 'puniſhment ſhall be arbitrary, as the Biſhop ſhall think fitteſt. 'All which *Canons* were never ſeen or allowed in any General As-'ſembly, but are impoſed contrary to order of Law appointed in 'this Realm for eſtabliſhing Conſtitutions Eccleſiaſtical; unto 'which two Books, the foreſaid Prelates have under truſt, procu-'red His Majeſties Royal-hand and Letters Patents, for preſſing the 'ſame upon his Loyal Subjects, and are the contrivers and deviſers 'of the ſame, as doth clearly appear by the Frontiſpiece of the 'Book of *Common Prayer*, and have begun to urge the acceptance 'of the ſame, not only by Injunctions given in Provincial Aſſem-'blies, but alſo by open Proclamation and charge of *Horning*, where-'by we are driven in ſuch ſtraits, as we muſt either by proceſs 'of Excommunication and Horning, ſuffer the ruine of our Eſtates 'and Fortunes, or elſe by breach of our Covenant with God, and 'forſaking the way of True Religion, fall under the wrath of God, 'which unto us is more grievous than death. Wherefore we be-'ing perſwaded, that theſe their proceedings are contrary to our 'Gracious Soveraign his pious intentions, who out of his Zeal and 'Princely Care of the preſervation of True Religion eſtabliſhed in 'this his ancient Kingdom, hath ratified the ſame in his Highneſs 'Parliament 1633. And ſo His Majeſty to be highly wronged by 'the ſaid Prelates, who have ſo far abuſed their Credit with ſo 'good a King, as thus to enſnare His Subjects, rend our Church, un-'dermine Religion in Doctrine, Sacraments and Diſcipline, move diſ-'content between the King and His Subjects, and diſcord between 'Subject and Subject, contrary to ſeveral Acts of Parliament. We 'out of bound duty to God, our King, and Native Country com-'plain of the foreſaid Prelates, humbly craving, that this matter 'may be put to tryal, and theſe our Parties taken order with ac-'cording to the Laws of the Realm: and they be not ſuffered to 'ſit any more as Judges, until the Cauſe be tried and decided ac-'cording to juſtice. And if this ſhall ſeem to be to you a matter of 'higher importance than you will condeſcend unto, before His 'Majeſty be acquainted therewith, then we humbly ſupplicate, 'That this our grievance and complaint may be fully repreſented 'to His Majeſty, that from the influence of his gracious Soveraignty 'and Juſtice, theſe wrongs may be redreſſed, and we have the 'happineſs to enjoy the Religion, as it hath been reformed in this 'Land.

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These Petitions were sent up to the King by the Secret-Council; but the King finding no disavowing of the late Tumults, resolved to delay the Answering of their Petitions; but in the mean time commanded His Privy Council to signifie to His Subjects His averseness from Popery, and detestation of Superstition: and so accordingly the Council caused the ensuing Proclamation to be made at *Linlithgow*, dated *December* the 7*th.* 1637. being as followeth.

At *Linlithgow December* 7. 1637.

The Kings Declaration against these Barbarous Tumults, and that His Majesty abhorreth all Superstition of Popery.

FOrasmuch as the King's Majesty having seen the Petition presented to the Lords of His Privy Council, and by them sent up to His Majesty concerning the Service-Book, determined to have taken the same into Consideration, and to have given His Gracious Answer thereanent with all convenience; like as His Majesty by His Letter to His Council, of the date of the 9th. of October last, did signifie His Gracious Resolution to the effect aforesaid: but since that time His Majesty finding (far contrary to His expectation) that such disordery, tumultuous and barbarous Insolencies have been committed within the City of Edenburgh upon the 18th. day of October last, to the great contempt of His Majesties Royal Authority, by abusing His Majesties Councellors and Officers of State, with others bearing Charge and Authority under His Majesty within the said City; His Majesty in a just resentment of that foul indignity (wherein His Majesties Honour did so much suffer) hath been moved to delay the signification of His Majesties gracious intentions, in giving to His Subjects such satisfactory Answers to their Petitions, as in equity might be expected from so Just and Religious a Prince: but yet His Majesty being unwilling that His Loyal and Faithful Subjects should be possessed with groundless and unnecessary doubts and fears, His Majesty is pleased out of His Goodness to declare, like as by these presents he declareth, That as he abhorreth all superstition of Popery, so he will be most careful, that nothing be allowed within His Majesties Dominions, but that which shall tend to the advancement of True Religion, as it is presently professed within His most ancient Kingdom of Scotland, and that nothing is or was intended to be done therein, against the laudable Laws of this His Majesties Native Kingdom; and ordaineth publication to be made thereof in form as aforesaid.

April 1637.

Having given the Reader the trouble with an account of the *Scotish* Affairs, from the twenty third of *July* to the month of *December*, we shall now revert to *England*, and give an account of affairs there as we left them in order of time.

At this time it was endeavoured to block up the passage of those voluntary Exiles that were willing to go to another part of the World: where, as they said, they might not meet with such disturbance as they had here in *England* from the Ecclesiastical Courts. Here followeth the Proclamation prohibiting their Exportation.

The

13 *Caroli*

April 30. A Proclamation againſt the diſorderly Tranſporting His Majeſties Subjects to the Plantations within the parts of *America*.

THe King being informed, that great numbers of His Subjects were yearly tranſported into thoſe parts of America, which have been granted by Patent to ſeveral Perſons, and there ſettle themſelves, ſome of them with their Families, and whole Eſtates, amongſt whom were many idle and refractory humors, whoſe only or principal end is to live without the reach of Authority; did command His Officers, and Miniſters of the Ports, not to ſuffer any Perſons, being Subſidy-Men, or of their value, to paſs to any of thoſe Plantations without a Licence from His Majeſties Commiſſioners for Plantations firſt obtained; nor any under the Degree of Subſidy-men, without a Certificate from two Juſtices of Peace where they lived, that they have taken the Oaths of Allegiance and Supremacy, and a Teſtimony from the Miniſter of the Pariſh of their Conformity to the Orders and Diſcipline of the Church of *England*.

May 1. 1638. Order of the Council.

THe Privy-Council made another Order for Reaſons importing the State beſt known to themſelves, 'That the Lord Treaſurer of *England* ſhall take ſpeedy and effectual courſe for the ſtay 'of eight Ships now in the River of *Thames*, prepared to go for '*New-England*, and ſhall likewiſe give Order for the putting on 'Land all the Paſſengers and Proviſions therein intended for that 'Voyage. And ſome days after His Majeſty, and the Board, taking 'into conſideration the frequent reſort into *New-England* of divers 'Perſons ill-affected to the Religion eſtabliſhed in the Church of '*England*, and to the good and peaceable Government of this State, 'howbeit, upon the humble Petition of the Merchants, Paſſengers, 'and owners of the Ships now bound for *New-England*; and upon 'the Reaſons by them repreſented to the Board, His Majeſty was 'then graciouſly pleaſed to free them from the late Reſtraint to pro'ceed in their intended Voyage. Nevertheleſs His Majeſty know'ing the Factious diſpoſition of a great part of the People of that 'Plantation, and how unfit and unworthy they are of any ſupport 'or countenance from hence in reſpect of the great diſorders and 'want of Government among them, whereof ſundry and great 'Complaints have been preſented to the Board, and made appear 'to be true, by thoſe that being well-affected both for Religion and 'Government, have ſuffered much loſs in their Eſtates by the un'ruly Factious Party, did think fit and Order, That Mr. Attorney'General ſhall forthwith draw up a *Proclamation* expreſſing His Ma'jeſties Royal Pleaſure to prohibit all Merchants, Maſters, and Ow'ners of Ships, henceforward to ſet forth any Ship or Ships with 'Paſſengers for *New-England*, till they have firſt obtained ſpecial *Li*'*cence* on that behalf, from ſuch of the Lords of His Majeſties moſt 'Honourable Privy-Council, as are appointed for the Buſineſſes of 'Forreign Plantations by ſpecial Commiſſion.

According to this Order of the Council a Proclamation iſſued forth.

And upon the ſame Grounds and Reaſons the Paſſage to the *Summer-Iſlands* was barred by this Order of the Council.

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A Warrant to the Lord Admiral to stop unconformable Ministers from going beyond Sea.

'WHereas it is observed, That such *Ministers who are unconformable* to the Discipline and Ceremonies of the Church, 'have and do frequently *transport themselves* to the *Summer-Islands*, 'and other His Majesties Plantations abroad, where they take li- 'berty to nourish and preserve their factious and *Schismatical humors*, 'to the seducing and abusing of His Majesties Subjects, and the 'hindrance of that good Conformity and Unity in the Church, 'which His Majesty is careful and desirous to establish throughout 'His Dominions: We are therefore in His Majesties Name, and 'by His express Command, to pray and require your Lordship, 'to take present and strict order that no *Clergy-man* be henceforth suf- 'fered to go over into the *Summer-Islands*, but such only as shall have 'approbation on that behalf from Our very good Lords, the Lord 'Arch-bishop of *Canterbury* his Grace, and the Lord Bishop of *Lon- 'don*. And for all such of them as are already gone thither with- 'out such approbation, that you cause them forthwith to be re- 'manded back hither.

Non-conformists sell their Estates.

The severe Censures in *Star-Chamber*, and the greatness of the Fines, and the rigorous Proceedings to impose Ceremonies, the suspending and silencing Multitudes of Ministers, for not reading in the Church the Book for Sports to be exercised on the Lords day, caused many of the Nation, both Ministers and others, to sell their Estates, and to set Sail for *New-England*, (a late Plantation in *America*) where they hold a Plantation by *Patent* from the King.

At this time there was a great discourse, that the Arch-Bishop of *Canterbury* his Chaplain had Licensed a Book containing Passages tending to Popery, which got so great ground and credit in the Report, as the State thought fit to purge themselves from owning any such Passages in the Book; and the Chaplain being well befriended, did acquit himself, as by the following Proclamation doth appear.

A Proclamation for calling in a Book, entituled an Introduction to a Devout Life; *and that the same be publickly burnt.*

May 14.

WHereas a Book, entituled An Introduction to a Devout Life, was lately printed by Nicholas Oakes of London, and many of them published and dispersed throughout the Realm, the Copy of which Book being brought to the Chaplain of the Lord Arch-bishop of Canterbury for Licence and Allowance, was by him, upon diligent perusal, in sundry places expunged and purged of divers Passages therein tending to Popery: Nevertheless the same Book, after it was so amended and allowed to be printed, was corrupted and falsified by the Translator and Stationer, who between them inserted again the same Popish and unsound Passages: And the Stationer is now apprehended, and the Translator sought for to be proceeded against according to Justice.

His

His Majeſty, out of His Pious and conſtant care, to uphold and maintain the Religion profeſſed in the Church of England in its purity, without error or corruption, doth therefore hereby declare His Royal Will and Pleaſure to be, and doth ſtraitly Charge and Command all Perſons, of what degree, quality, or condition ſoever, to whoſe hands any of the ſaid Books are, or ſhall come, that without delay they deliver or ſend them to the Biſhop, or Chancellor of the Dioceſs, whom His Majeſty requireth, to cauſe the ſame to be publickly burnt, as ſuch of them as have been already ſeized on, have been by His Majeſties expreſs Command: And to this His Majeſties Royal Pleaſure, he requireth all His Loving Subjects to yield all due conformity and obedience, as they will avoid the Cenſure of high Contempt. 13 *Caroli.*

Concerning Goldſmiths Shops in *Cheapſide.*

AT this time great care was taken about the repair of St. *Pauls*, and that nothing ſhould ſtand in the way, which might hinder the beauty of the Church; which occaſioned the pulling down of St. *Gregories* Church, to the great grief, trouble and charge of the Inhabitants, and *Cheapſide* leading into *Pauls* Church-yard, being very glorious by the ſhew of Goldſmiths Shops: for the Honour of the City, as well as for the Church, theſe following Orders were made by the Council-Board, for removing of certain Shops, which did eclipſe the glory of that Place.

A Letter from the Lords of the Council to the Lord Major and Aldermen of *London.*

Shops in *Cheapſide* and *Lombard-ſtreet* that are not Goldſmiths to be ſhut up.

WHereas *by Our Letters of the* 15th *of* July, *and laſt of* January 1635. *We did not only take notice of the preſent remiſneſs and backwardneſs in the then Lord Major and Aldermen in ſeeing Our directions, by His Majeſties expreſs Command, forthwith put in execution, by bringing the Goldſmiths, living diſperſed in the City, to ſeat themſelves either in* Cheapſide *or* Lombard-ſtreet, *for which purpoſe We required that all other Tradeſmen ſhould be removed, and give place unto them; but if they ſhould obſtinately refuſe, and remain refractory, then to take ſecurity of them to perform the ſame by a certain day, or in default of giving ſuch ſecurity, to commit them to priſon until they conform themſelves. Notwithſtanding all which His Majeſty hath been informed, that there are yet a great number of Houſes of other ſeveral Trades, that live both in* Cheapſide *and* Lombard-ſtreet, *contrary to His Majeſties Command, and Our ſaid Directions, which neglect being both inexcuſable, and very worthy of blame; We muſt let your Lordſhip,* &c. *know, that if ſpeedy and effectual care be not taken by you, in ſeeing the ſame duly performed, His Majeſty will not paſs it by, without calling you to an account for it. And in the mean while We are by His Majeſties Command to require and charge you, forthwith to cauſe all ſuch Shops as are not Goldſmiths, and have been taken or opened either in* Cheapſide *or* Lombard-ſtreet *ſince Our ſaid Letters, to be preſently ſhut up and not permitted to be opened, till further order from this*

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this Board; whereof your Lordship, &c. may not fail. And so, &c. Dated the 24th *of* May 1637. *And Signed by,*

Lord Arch-bishop of *Canterbury*,
Lord *Keeper*,
Lord *Treasurer*,
Lord *Privy-Seal*,
Lord Great *Chamberlain*,
Earl of *Dorset*,
Lord Viscount *Wimbledon*,
Lord *Cottington*,
Mr. *Comptroller*,
Mr. Secretary *Cooke*.

And the *7th* of *July* following this further Order was made, in the inner *Star-Chamber*.

Star-Chamber, *July* 7. 1637.

Shops in *Cheapside* and *Lombard-street* which are not Goldsmiths to be shut up.

Whereas their Lordships did this day take notice, that contrary to the Orders and Directions of their Lordships, divers Tradesmen which are not Goldsmiths, do contemptuously open again their Shops, both in Cheapside and Lombard-street, though they kept them for a while shut; their Lordships greatly blaming the Lord Major and Aldermen of the City of London, that they have so negligently performed his Majesties Commands, and the strict Directions of the Board, by Letters of the 24th of May last, and before, concerning the shutting up of all such Houses and Shops in Cheapside and Lombard-street as aforesaid, and that some of their Lordships have been Eye-witnesses (very lately) of their disobedience in this particular, did think fit and order, that if the Alderman or his Deputy shall not forthwith cause to be shut up every such Shop standing within his Ward in Cheapside and Lombard-street, which are not Goldsmiths; upon knowledge thereof the said Alderman, or his Deputy, shall be committed to Prison by Warrant from the Board.

And their Lordships did command, That this Order should be sent to the Lord Major, to the end, that notice might be given to whom it appertained.

Another Letter from the Lords of the Council, directed to the Lord Major of *London*; Dated the 12*th* of *January* 1637.

To put in execution former Directions touching shutting up of such Houses and Shops in *Cheapside*, &c. as are not Goldsmiths.

By several Letters and Orders of this Board, and particularly that of the 24th *of* May, *and the* 7th *of* July *last, we took notice how negligently the then Lord Major and Aldermen had performed His Majesties Commands, and the strict Directions of this Board, concerning the Shutting up of all such Houses and Shops in* Cheapside *and* Lombard-street *as were not* Goldsmiths; *and did Order, That if the Aldermen of the said Wards, or their Deputies, should not forthwith cause to be shut up every such Shop standing within their Wards in* Cheapside *and* Lombard-street, *which are not Goldsmiths; the said Alderman, or his Deputy neglecting so to do, should be committed to*

Prison

13 Caroli.

Priſon by Warrant from the Board. Yet nevertheleſs, as we are informed, there are at the leaſt 24 *Houſes and Shops that are not inhabited by Goldſmiths, but in ſome of them are one* Grove, *and one Widow* Hill *Stationers, one* Dover *a Milliner, and one* Brown *a Bandſeller; one* Sanders *a Drugſter, and one* Medcalfe *a Cook; one* Edwards *a Girdler, do, by connivance, ſtill inhabit there, having ſome part of their Shops ſhut, and the reſt open; which contempt of theirs, and diſreſpect, and neglect of the Aldermen, or their Deputies of thoſe Wards, as we cannot but take notice of; ſo we muſt hereby pray and require your Lordſhip (without delay) to accquaint the ſaid Aldermen and their Deputies therewith, and that if they do not preſently put our former Directions in that particular in execution; we ſhall then give ſuch further Order, as ſhall teach them to know, that the Commands of this Board ought not to be ſlighted. And hereof we ſhall expect to receive a particular account from your Lordſhip, who we hope will have a better care to ſee His Majeſties Commands performed on this behalf, than your Predeceſſors have had. And ſo,*&c. *Dated the* 12th *of* January 1637. *Signed by*

Lord *Keeper*,
Lord *Treaſurer*,
Lord *Privy-Seal*,
Lord Marqueſs *Hamilton*,
Earl *Marſhal*,
Lord *Chamberlain*,
Earl of *Dorſet*,
Lord *Cottington*,
Lord *Newburgh*,
Mr. Secretary *Cook*,
Mr. Secretary *Windebancke*.

Panzani, the Popes Nuntio, his Letter to one of His Majeſties principal Secretaries of State.

Moſt Excellent Sir, Patron moſt Honoured,

May 31. 1637. A Letter from the Popes Nuntio.

I *Would have retained my ſelf from writing to your moſt Illuſtrious Lordſhip, for fear of being to you ſome impediment, I knowing your many Occupations: but I have heard from many* Perſons, *and in particular by Letters of Seignior* Franciſco, *ſometimes my Secretary, the Honourable Mention that other-whiles your moſt Illuſtrious Lordſhip is wont to make of my Perſon; and having alſo oftentimes underſtood from the moſt famous Seignior* Cavaliere Hamilton, *and from Father* John *the* Benedictine, *how much your moſt Illuſtrious Lordſhip ſtraineth in favouring of me, I have been forced to commit this rude incivility, taking in hand my Pen to give you trouble. I aſſure your moſt famous Lordſhip, that I live ſo much obliged unto you, that I ſhall never be able to pretend to give ſatisfaction for one or the leaſt particle of that which I owe; ſeeing that during my abode in* London, *moſt rare were thoſe days in which I did not receive from your moſt Illuſtrious Lordſhip ſome Grace in the behalf and favour of the Poor Catholicks,* &c.

I muſt alſo congratulate my ſelf with your moſt famous Lordſhip, concerning the moſt Noble Manners and Behaviours of your Lordſhips Sons, the which, with their ſingular Modeſty, and other moſt Laudable Vertues, have gained ſuch an opinion amongſt them that have known them in this Court, that I could never be able to expreſs it, and the Lord Cardinal Barbarino, *in particular, cannot ſatiate himſelf in praiſing them. It*

grieves

An. 1637. *grieves me not to have had the fortune to meet with them in this City, because willingly I would have atteſted my devotion towards your moſt famous Lordſhip; to the which, and to all your moſt Illuſtrious Family, I reſt, deſiring Eternal Felicity. In the mean while I humbly intreat you to favour me with ſome Commandment, and I kiſs your Hands;*

From *Rome* the 31*ſt* of *May* 1637.

Your moſt Illuſtrious Lordſhips moſt devout, and moſt obliged Servant,

Gregory Panzani.

Trin'-Term. A Judge refuſing to take bail upon a *Habeas Corpus.*

SIr *R. B.* being one of the Juſtices of the Court of *Kings-Bench*, and duly ſworn in *Trinity-Term* 1637. deferred to diſcharge or bail *Alexander Jennings*, Priſoner in the *Fleet*, brought by *Habeas Corpus* to the Bar of the ſaid Court; the return of his Commitment being, that he was committed by two ſeveral Warrants from the Lords of the Council, dated the fifth of *November* 1636. the firſt being read only in Court expreſſing no cauſe, the other for not paying Meſſengers Fees; and until he ſhould bring a Certificate, that he had paid his Aſſeſſment for Ship-money in the County of *Bucks*, they therefore remitted him. And in *Michaelmas-Term* after, the ſaid *Jennings* being brought by another *Habeas Corpus* before him as aforeſaid, and the ſame returned; yet he the ſaid Sir *R. B.* refuſed to diſcharge or bail him, but remitted him. And in *Eaſter-Term*, after ſeveral Rules were given for His Majeſties Councel, to ſhew cauſe why the ſaid *Jennings* ſhould not be bailed; a fourth Rule was made for the ſaid *Jennings*, to let His Majeſties Attorney-General have notice thereof, and notice was given accordingly; and the ſaid *Jennings* by another *Habeas Corpus* brought to the Bar in *Trinity-Term* after, and the ſame return; with this addition of a new Commitment of the fourth of *May*, ſuggeſting he the ſaid *Jennings* had uſed divers ſcandalous words in derogation and diſparagement of His Majeſties Government: he the ſaid *Jennings*, after ſeveral Rules in the end of the ſaid *Trinity-Term*, was again remitted to Priſon; and he the ſaid Sir *R. B.* did on the fifth of *June* laſt, defer to grant His Majeſties Writs of *Habeas Corpus* for *William Pargiter*, and *Samuel Danvers* Eſquires, Priſoners in the *Gatehouſe*, and in the *Fleet*; and afterwards having granted the ſaid Writ of *Habeas Corpus*, the ſaid *Pargiter* and *Danvers* were on the eighth of *June* laſt brought to the Bar of the ſaid Court, where the returns of their Commitments were ſeveral Warrants from the Lords of the Council, not expreſſing any cauſe; yet he the ſaid Sir *R. B.* then ſitting in the ſaid Court, deferred to bail the ſaid *Pargiter* and *Danvers*, and the eighteenth of *June* laſt made a Rule for a new Return to be received, which were returned the 25*th* of *June* laſt *in hæc verba.*

Alexander Jennings and *Samuel Danvers* their Caſe.

June 25.

'Whereas His Majeſty finding that His Subjects of *Scotland* 'have in a Rebellious and hoſtile manner aſſembled themſelves 'together, and intend, not only to ſhake off their obedience 'unto His Majeſty, but alſo as Enemies, to invade and infeſt

'this

13 *Caroli.*

'this His Kingdom of *England*, to the danger of His Royal Per-
'ſon, *&c.*

For prevention whereof, His Majeſty hath, by the Advice of His Council-Board, given ſpecial commandment to all the Lord Lieutenants of the Counties of this Realm, appointed for their Rendezvouz, in their ſeveral and reſpective Counties, there to be conducted and drawn together into a Body for this Service. And whereas His Majeſty, according to the Laws and Statutes of this Realm, and the conſtant cuſtom of His Predeceſſors, Kings and Queens of this Realm, hath power for the defence of this Kingdom, and reſiſting the force of the Enemies thereof, to grant forth Commiſſions under His great Seal to ſuch fit Perſons as he ſhall make choice of, to array and arm the Subjects of this Kingdom, and to compel thoſe who are of able Bodies, and of able Eſtates, to arm themſelves; and ſuch as ſhould not be of able Bodies, but of ability in Eſtate, to aſſeſs them according to their Eſtates, to contribute towards the Charge of arraying others being able of Body, and not able in Eſtate to arm themſelves; and ſuch Perſons as ſhould be contrariant to commit to Priſon, there to remain until the King ſhould take further order therein.

And whereas the Earl of *Exeter*, by vertue of His Majeſties Commiſſion to him directed, for the arraying and arming of a certain number of Perſons in the County of *Northampton*, hath aſſeſt *William Pargiter*, being a Man unfit of Body for that Service, but being of Eſtate and Ability to contribute amongſt others, to pay the Sum of Five Shillings towards the arraying and arming of others of able Bodies, and wanting ability to array and arm themſelves.

And whereas We have received information from the ſaid Earl, That the ſaid *William Pargiter* hath not only, in a wilful and diſobedient manner refuſed to pay the ſaid Money aſſeſſed upon him towards ſo important a Service, to the diſturbance and hindrance of the neceſſary defence of this Kingdom; but alſo by his ill example hath miſled many others, and, as we have juſt cauſe to believe, hath practiſed to ſeduce others from that ready obedience which they owe, and would otherwiſe have yielded to His Majeſties juſt command, for the publick defence of His Perſon and Kingdom, which we purpoſe with all convenient ſpeed to enquire further and examine.

Theſe are therefore to will and require you to take into your Cuſtody the Perſons of the ſaid *William Pargiter* and *Samuel Danvers*, and them ſafely to keep Priſoners till further order from this Board, or until by due courſe of Law they ſhall be delivered. Yet he the ſaid Sir *R. B.* being deſired to bail the ſaid *Pargiter* and *Danvers*, remitted them, where they remained Priſoners till the ninth of *November* laſt, or thereabouts; although the ſaid *Jennings*, *Pargiter* and *Danvers*, on all and every the ſaid Returns, were clearly bailable by Law; and the Councel of the ſaid *Jennings*, *Pargiter* and *Danvers*, offered in Court very ſufficient Bail. And he the ſaid Sir *R. B.* being one of the Juſtices of the Court of *Kings-bench*, denyed to grant His Majeſties Writs of *Habeas Corpus* to very many others His Majeſties Subjects; and when he had granted the ſaid Writs of *Habeas Corpus* to very many His Majeſties Subjects,

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and on the return no cauſe appeared, or ſuch only as was clearly bailable by Law; yet he remanded them, where they remained Priſoners very long: Which ſaid deferring to grant the ſaid Writs of *Habeas Corpus*, and refuſals and delays to diſcharge Priſoners, or ſuffer them to be bailed, are deſtructive to the fundamental Laws of this Realm, and contrary to former reſolutions in Parliament, and to the Petition of Right; which ſaid Reſolutions and Petition of Right were well known to him the ſaid Sir *R. B.* and were reſolved on and Enacted when he was the Kings Serjeant at Law, and Attendant in the Lords Houſe in Parliament.

Sir John Banks *Knight, His Majeſties Attorney-General, Plaintiff, the Right Reverend Father in God* John *Lord Biſhop of* Lincoln, Walter Walker, Tho. Lund, Cadwalader Powel, Richard Williams, William Catlin *Clerk*, Ed. Lake, Jo. Moſteyn, *and* George Walker, *Defendants.*

Proceedings upon the firſt Bill againſt the Biſhop of Lincoln.

Camera Stellat' 11 die Julij 13 Car' Regis. Proceedings againſt the Biſhop of *Lincoln* upon the firſt Bill.

Pigeons Credit coming in queſtion, being a material Witneſs for the Biſhop, the Kings Attorney-General let fall the firſt Bill, fearing a defect of Teſtimony, and preferred a ſecond Bill againſt the Biſhop for *Tampering with the Kings Witneſſes*, and upon that account the Cauſe came on the 11*th* of *July*, which held nine days debate in Hearing; and great was the Concourſe of People every day to the Court of *Star-Chamber* to hear this great Cauſe, the Biſhop being at that time much pityed by the People, who then caſt out Speeches that that Biſhop was proſecuted becauſe the State wanted Money to go to war againſt the *Scots*, and that it was fit he ſhould bleed in his Purſe by the Cenſure of the Court of *Star-Chamber* to pay a round Fine to the King of 10 or 12000 *l.*

This being a remarkable Cauſe, we will treſpaſs upon the Readers Patience to caſt his Eye upon Mr. Attorney-Generals Reply, and ſeveral of the Speeches made that day in Court at the paſſing of the Cenſure for the brief of that Bill and Anſwer is miſlaid, which we had once more at large.

The Information doth charge the ſaid Biſhop with *a Practice* unduly to gain the ſight and peruſal of certain Examinations taken by the Lords of His Majeſties Privy-Council, and commanded by them to be kept ſecret from the view of all Men, to the end unlawfully and corruptly to procure Witneſſes, directions and inſtructions for Witneſſes to make Proofs to contradict and weaken the ſaid Examinations: And for practiſing and corruptly tampering with Witneſſes to retract their former Teſtimonies, and to vary from the ſame upon their ſecond Examination: And for tampering with, and ſolliciting other Witneſſes, produced, and to be examined for His Majeſty, not to depoſe againſt the ſaid Lord Biſhop, but to conceal their knowledge, and ſay they did not remember; and for Perjury in an Affidavit made by the Defendant *Catlin* in this Court, and ſubordination thereof: And for other offences, as by the ſaid Complainants Information more at large it doth and may appear.

Upon

13 *Caroli.*

Upon full and deliberate Hearing whereof it plainly and evidently appeared to this Honourable Court, that there being another Cauſe formerly depending in this Court, between His Majeſties Attorney-General Plaintiff, and the ſaid Lord Biſhop of *Lincoln* Defendant, for publiſhing falſe News and Tales, to the ſcandal of His Majeſties Government, and for revealing of Counſels of State contrary to His Oath of a Privy-Councellor; one *John Prigeon* Gent. was in that Cauſe examined as a Witneſs for the Defendant, and by an Order made in *Hillary-Term* 10 *Car. Regis*, liberty was given to the Plaintiff to examine the Credit of the ſaid *Prigeon* upon certain exceptions, which were delivered into this Court: And liberty given to the Defendant alſo to examine Witneſſes to uphold and maintain his Credit; in one of which Exceptions was (amongſt other things) contained, That the ſaid *Prigeon* being by one *Elizabeth Hodgſon*, upon her Oath, accuſed to have begotten a Baſtard-Child on her Body: And being by the two next Juſtices of the Peace adjudged the reputed Father; and appealing from them to the next Quarter-Seſſions held in the ninth Year of His Majeſties Reign; to miſlead the Court of Quarter-Seſſions, and to free himſelf from that accuſation, did at ſeveral times, and by ſeveral Perſons and means, after he was ſo accuſed, labour to corrupt the ſaid *Elizabeth Hodgſon*, and for Money to procure her to lay the ſaid Baſtard-Child on ſome other Father, and to ſwear that ſome other, and not the ſaid *Prigeon* had begotten the ſaid Baſtard; and that he did labour, ſome Witneſſes that could have teſtified againſt him, touching the ſaid Baſtard at the ſaid Quarter-Seſſions, to ſuppreſs their Teſtimonies, and drew or endeavoured to draw others to equivocate upon their Oaths, when they did appear.

Mr. *Gardiner*, Recorder of *London*, made a long and witty defence for the Biſhop for ſeveral days together, much of which is repeated by ſome of the Lords in their Speeches, which (for brevity ſake) we omit; referring the Reader to the Decretal Order of the Court, which the Regiſter hath exactly drawn up, and which is mentioned at large in the Appendix; and alſo to thoſe Repetitions which ſome of the Lords do make of the Defence.

As to the firſt Bill depending againſt the Biſhop of *Lincoln* in the Court of *Star-Chamber*, it was occaſioned by the Examinations taken by ſome of the Privy-Council, of Sir *John Lamb*, and Dr. *Sibthorp*, who (amongſt divers other things) teſtified againſt the Biſhop of *Lincoln*, that the ſaid Biſhop did give them great diſcouragement in their Proceedings in the Eccleſiaſtical Courts againſt the Puritans; and that the Biſhop asked Sir *John Lamb*, what kind of People thoſe Puritans were of whom he complained, and whether they did pay the Loan-Money? to which Sir *John* replyed, They did conform upon that account, and paid their Money; but nevertheleſs they were *Puritans*, not conformable to the Church: to which the Biſhop replyed, If they pay their Monies ſo readily to the King, the *Puritans* are the Kings beſt Subjects, and I am ſure, (ſaid the Biſhop) the *Puritans* will carry all at laſt. Theſe Examinations were Sealed up, and Mr. *Trumbel*, Clerk of the Council, was required to keep them ſecret, and permit none to ſee them;

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but a diſcovery thereof was made to the Biſhop, which, amongſt other Matters of State, was the occaſion of the firſt Bill in this Court againſt the Biſhop, as the Information did ſet forth.

Sir John Banks *Knight, His Majeſties Attorney-General, his Reply in the Caſe againſt the Biſhop of* Lincoln.

May it pleaſe your Lordſhips,

Sir *Jo. Banks* his Reply in the Cauſe againſt the Biſhop of *Lincoln.*

YOur Lordſhips have heard a Defence made by the Defendants Councel, that conſiſts more of obſervation than of Proof, and in examination of his Defence, I ſhall make it appear plainly, that they very much fail in their own Obſervations. In their Obſervations they have been curious in diſtinction of Times, Place, and other Circumſtances, to deſcant upon the Particulars of Witneſſes, and Men that were no Parties to the Suit; but for the main ſubſtantial Parts of the Defence they have omitted. I ſhall deſire to obſerve to your Lordſhips, that (with a great ſcandal on His Majeſties Proceedings in this Court) they have told you Stories and Tales that ſhould be ground of this Suit, *viz.* That it was through malice and hatred between Sir *John Mounſon*, Mr. *Amcocks*, and *Prigeon*; whereas it ſhall appear unto your Lordſhips, that the Suit was upon moſt juſt Grounds, for the vindicating of publick Juſtice, and that Sir *John Mounſon* hath done nothing in this Cauſe, but according to the Duty of his Place, and clearing his own Reputation. It will be neceſſary, ſince theſe things have been ſtirred, not for your Lordſhips Information (who knows it well) but for the ſatisfaction of the World, to clear and juſtifie His Majeſties Proceedings, that I give you ſome Information of the true Ground of this Suit, and of the neceſſity of it.

Michaelmas 4 *Car.* an Information was exhibited againſt my Lord Biſhop by my Predeceſſor, and that was for the contriving and publiſhing divers falſe Tales and News, to the ſcandal of His Majeſties Governmeſt, and for revealing ſome things contrary to the Duty of his Place, and Oath, as a Privy-Councellor. This Cauſe came to Iſſue, and in the examination of Witneſſes, another Iſſue happened, a collateral matter by it ſelf touching the Credit of *Prigeon*: Upon examination of this it fell out, (which we could not diſcover before Publication in the firſt Cauſe) that there had been ſuch tampering, ſeducing, and labouring of the Kings Witneſſes, as never was in any Cauſe: There hath been ſuch Preparations, ſuch Inſtructions, ſuch Limitations to his own Witneſſes, to direct them how far they ſhould ſwear, to what to give anſwer, and to what not. My Lords, theſe Proceedings (if they might be ſuffered) tend totally to the ſubverſion of all Juſtice: For the Proceedings in this Court, as in all other Courts, is by examination of Witneſſes returned in Parchment not *viva voce*; therefore if any be inſtructed what to ſwear to, and it ſo returned in Writing, whether through threats, or for fear, or favour, or affection, it is impoſſible you ſhould give a juſt Sentence, though you intend it never ſo clear. My Lords, this appearing after Publication in the firſt Cauſe, it was time (for Example ſake) to bring this Cauſe and

and theſe Miſdemeanours to a publick Sentence, to be a terror to all others for the like. So as (my Lords) this Cauſe is not grounded upon the fabulous Story between Sir *Jo. Mounſon*, Mr. *Amcocks*, and *Prigeon*, but upon theſe juſt Grounds and Proceedings; and herein we have great cauſe to bleſs God, and magnifie His Majeſties Juſtice, that we live not under a Cobweb-Law, that taketh ſmall Flies, and lets great ones paſs. This Preſence doth tell us, that Honourable Perſons who do deſerve well have His Majeſties Favour, and their own Merits do receive a double Honour; and this perſon (how great ſoever) if he deſerve ill, he muſt receive a Sentence according to his juſt demerit. 13. *Caroli.*

My Lords, I ſhall come now to the particular Charges, and therein I ſhall begin with the firſt Charge, which is concerning the tampering with the four Witneſſes, who depoſed about this Baſtard-Child; wherein the ſtate of the Queſtion ſtandeth thus.

In *February* 10 *Car.* there was an Order for the examination of *Prigeons* Credit: Among other things there fell out a Queſtion concerning a Baſtard-Child, whether *John Prigeon* was the reputed Father yea or no? There was for the Proof of the Fact produced before the Juſtices Dr. *Topham* and Dr. *Farmery*; and before the Juſtices at publick Seſſions ſeveral Witneſſes, four of them, *Lunn*, *Wetherel*, *Anne Smith*, and *Tub*, depoſed directly, that this *Prigeon* was the Father of this Child; ſome by confeſſion from him, ſome by confeſſion from her ſelf being the Mother of the Child, who were preſent at the time of her delivery.

Theſe Examinations thus taken, for the truth of it that he was the Father of the Baſtard-Child, the Juſtices did certifie it in publick Seſſions accordingly. But now my Lord of *Lincoln* conceiveth with himſelf, that he cannot ſupport the Credit of *Prigeon* (which concerned him ſo much) unleſs he could get theſe four Witneſſes to vary from their former Teſtimony, and by his Agents hath laboured as you have heard. To this they have ſeemed to make ſome Anſwer: 1. The Order made 2. *Maij* 9 *Car.* and that was before Sir *John Bowles*, Serjeant *Callis*, and others; and that Order was to acquit *Prigeon* of the Baſtard-Child, and to lay it upon one *Booth*. To that I ſhall give a clear Anſwer: Firſt of all, Dr. *Topham* and *Farmery* that were the Men that took the Examinations concerning this Baſtard-Child, were not preſent at the making of this Order. Secondly, The Witneſſes, thoſe four of them that ſhould give the Teſtimony for the Proof, no one of them were preſent; and it is proved that *Wetherel* was hired to be abſent: And in the laſt place, this Order 2. *Maij* was contraried by the Order 3. *Octob.* when all the other Juſtices ſave Sir *John Bowles* were preſent at the Seſſions. And for the Order that was confirmed by the Court of *Kings-Bench*, it was upon the Regality of the Order, but not in reſpect of the Fact. And (my Lords) there is another Ground of it; for at that time *Prigeon* had ſubmitted to keep the Baſtard-Child, and given Bond to diſcharge the Pariſh, and maintain the Child. This was proved by two Witneſſes: But the offence is not concerning this Baſtard-Child; for ſuppoſe a Man had a Baſtard-Child, will that make his Teſtimony wholly void? The Charge is, that after ſuch time, as this was fully depoſed by four Witneſſes, there muſt be a labouring with them, and giving of Money

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Money to make a Retractation. 1. For *Wetherels* Retractation, your Lordſhips have heard he was examined at the Seſſions 1. *Octob.* that he did confeſs there *John Prigeon* intreated him not to appear at the Seſſions, and that he ſhould anſwer to no more Queſtions than the Court asked him; this was his depoſition at the Seſſions. Being examined in the ſecond Cauſe, there he doth mince his Depoſition, 160. *Int.* he ſaith *Prigeon* did not draw him by Bribes or Rewards to equivocate, *&c.* And that it was for Bribes and Rewards it appeareth by *George Walkers* Examination; for he ſweareth, that this Money was to be paid to a Butcher by 6 *d.* in a Joynt; ſo it was not given as a Bribe, but by 6 *d.* in a Joynt of Meat. *George Walker* ſweareth, that *Owen* and *Powel* ſhewed *Wetherel* a Dictionary, and ſhewed him the meaning of the word *Equivocation* and *Subornation*, and this Diſcourſe was related to *Elizabeth Smith*. To which the Recorder replyed, Mr. Attorney miſtakes himſelf; I will not (ſaith the Attorney) touch upon any thing in my Reply that will not plainly appear in the Books.

To take off this Charge concerning *Wetherel*, they have read *Wetherels* Depoſition, (againſt whom all this Proof is) to the 2, 3, 4, and 5 *Int.* to which Interrogatories his Depoſition is a plain Negative pregnant, made upon a leading *Int.* thus: Whether did *Powel* at the time and place aforeſaid requeſt you to write your Name to any Note at all? (to ſhew that it is leading) *Witherel* anſwereth *Int.* 5. That the ſaid *Powel* did not in *January* aforeſaid, at the place aforeſaid, requeſt him to write his Anſwer to any Note, or to any Note to ſuch effect; ſo he ſweareth he did not at that time and place ſhew ſuch a Note. The Depoſition of *Walker* is, That by the direction of *Owen* and *Powel* he tendered the Note, as by the direction of the Lord Biſhop. Another thing upon the examination of *Wetherel*, he was not examined till the *16th* of *May* 13. and at that time he had Copies of *Walkers* Examinations, and ſo prepared himſelf.

This is the Anſwer I give to the Depoſition of *Wetherel.*

They had next *George Walker*, a Defendant, who hath confeſſed againſt himſelf ſufficient matter, for which I hope your Lordſhips will Sentence him. It is proved he was imployed to tamper with *Alice Smith*, and he muſt be the Man to give an account to my Lord Biſhop of the Proceedings. They ſay it was a lawful and juſtifiable thing to ask a Witneſs a Queſtion, and that *Wetherel* was but ask'd the Queſtion, and nothing more: My Lords, here is more than asking the Queſtion, it appeareth in the Proof that there was a Note delivered by *Powel* to *Walker* to ſubſcribe, there was ſhewing to *Wetherel* a Dictionary to expound the words *Equivocation* and *Subornation*; ſo it was not an asking for bare information, but a tendring of Notes to avoid equivocation in the Cauſe.

In the next place they have inſiſted upon the Depoſition of *Lunn* and *Alice Smith*; wherein they ſay, that what they have ſaid was but an Explanation of what they had formerly ſworn, and no retractation, and that it was lawful for a Witneſs to explain himſelf; but it will appear to be a plain Retractation. 1. *Alice Smith* did depoſe

poſe formerly, that *Prigeon* ſent for her, deſiring her to ſee if ſhe could get the Woman lay the Child upon any other. That was her Depoſition at the Seſſions. But in the ſecond Cauſe ſhe ſweareth it was to get her to lay the Child upon any other that ſhe reputed to be the Father of it, and not upon himſelf. And ſo for *Anne Tub* her Depoſition at the Seſſions, that *Prigeon* had offered her 20 *s.* to get her lay the Child upon any other but upon him; but her Depoſition in the ſecond Cauſe to lay the Child upon ſome that were the true Father: ſo here is a Depoſition that a Bribe ſhould be given to lay the Child upon any other but upon *Prigeon*, and now to depoſe to lay the Child upon the true Father, is a croſſing of the former Depoſition, and far from an Explanation. 13 *Caroli*

They have taken ſome Exceptions to *George Walker*, to ſhew how improbable a thing it was, that he ſhould be a fit perſon to negotiate in this buſineſs, and they told your Lordſhips ſome Reaſons, *George Walker* and *Prigeon* were not kind, and therefore unlikely *George Walker* ſhould be imployed for ſupporting the Credit of *Prigeon*. 1. In this Particular they have not read that there was any difference between them two. 2. *George Walker* might be very well made choice of to be imployed, for he was a Proctor in my Lord Biſhops Court. 3. Suppoſe there were differences between them two, this was an Imployment for the Biſhop of *Lincoln*; for this was a Service for my Lord Biſhop, who was much engaged to maintain the Credit of *Prigeon*, for it appears out of his own mouth by 3 Witneſſes, that it had coſt him 1200 *l.* and 1000 *l.* to maintain his Credit; for *Prigeon* at this time had taken the Child upon him, but the Service that was to be done was for the Biſhop, and therefore *George Walker* a fit man for it. But they ſay here was only a Queſtion asked of *Alice Smith*, whether ſhe had ſaid ſo? here was no tampering with her to alter her Depoſition: Look upon the Depoſition of *Alice Smith* to *Int.* 29, 31. and there it will appear unto your Lordſhips, it was not a bare asking of a Queſtion; did not he ſay it was to lay the Child upon any other that was the true Father? but the very queſtion asked, they endeavoured to have proved in the ſecond Cauſe. The queſtion was, whether that *Alice Smith* could depoſe that *Prigeon* ſaid unto her, get the Woman to lay the Child upon the true Father? *George Walker* brought word to the Biſhop they could get nothing from her as yet.

E. Smith Int. 29. ſaith, *Alice Smith* did then and there ſeriouſly affirm, that *Prigeon* offered her 5 *l.* to lay the Baſtard-Child upon any other, and not upon him: and then this Deponent asked her, if ſhe were not miſtaken, for he meant it was to lay the Child upon any other that was the right Father; ſhe anſwered again, no, ſhe was not miſtaken, the 5 *l.* was to procure her to lay it upon any other, and not upon him; and ſaid further, that the Woman had acknowledged *Prigeon* had twice the uſe of her Body againſt the Church-wall; that *George Walker*, in the preſence of *Powel* and *Owen*, and others, related unto them the ſubſtance and effect of the whole Diſcourſe with *Alice Smith* at *Morton*; and one of them deſired to write his Letter to the Biſhop to give him ſatisfaction, and told this Deponent it was deſired by *Owen* and *Powel* to give his Lordſhip an account of their Journey; in which Letter was expreſſed, that they could gain nothing out of *Alice Smith*.

My

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My Lords, to confirm this we read *George Walker Int.* 17. who proveth the like preſſing of *Alice Smith*; and in the end the conſequence was, *Alice Smith* did vary from what ſhe had formerly ſworn.

Next place they have given ſome Anſwer unto *Robert Richardſon*, to the 35. *Int.* (which being read was to this effect) ſaith, *John Prigeon* the elder did acquaint this Deponent to come and ſpeak with the Biſhop of *Lincoln* before his Examination, and accordingly his Lordſhip did in his little Parlour ſpeak with this Deponent, and did then and there acquaint him, that he had ſeen the Copy of the Examinations taken at the Seſſions, and did ask this Deponent who drew up the ſame; this Deponent anſwered his Lordſhip, that he did it as Clark of the Peace: the Biſhop ſaid, he was miſtaken in the Penning of the Depoſition, for that he ſhould have ſaid, to lay the Child upon the right Father, and not otherwiſe. The Biſhop ask'd how he would interpret the Record; he ſaid he could think no otherwiſe of it than as the Witneſs had ſworn. And this Deponent further ſaith he verily believeth his Lordſhip would have had him to have altered the Record, that it might not trench upon *Prigeons* Credit, for he would have had him given it a right Father.

My Lords, your Lordſhips may obſerve firſt of all, that my Lord Biſhop ſent for *Richardſon* to come to him and ſpeak with him, before he ſhould be examined; then my Lord asked who drew the Depoſition of *Anne Tub* and *Alice Smith*; he told him they were drawn up in open Court; he ſaid he thought the Deponent was deceiv'd, for it ſhould be upon the right Father; ſo here was a Retractation, which was the Point in iſſue. 3. He asketh him how he would interpret the Record, and wiſhed him to be tender of *Prigeons* Credit.

My Lords, this is of great conſequence; for if my Lord Biſhop could have gained the razing of this Record, to lay the Baſtard-Child upon any other that was the right Father, then he had gained the Cauſe; for the tampering with Witneſſes was the Ground of the Cauſe.

The next Objection they made, was touching the fetching away of this ſame *Alice Smith*. They have told your Lordſhips, that ſhe was brought to *Huntingtон*, and not finding the Commiſſioners there, they brought her up to *London*, and here ſhe was examined, and if the Kings Council would have examined her, they might have exhibited *Interr*'; and they have told your Lordſhips, that the Charge was, that ſhe was ſhifted from place to place, that ſhe might not be examined as a Witneſs for the King. They have utterly miſtaken this Charge of the Information; for the Charge is, that they did ſhift her away from place to place, that ſhe ſhould not be examined as a Witneſs at the Commiſſion. 2. Of purpoſe to cauſe her to vary and retract her Teſtimony, by working with her during the time of the execution of the Commiſſion, that ſhe ſhould have been examined for the King: For this Commiſſion was executed at *Bedford* but twelve Miles from *Huntingtон*, where they were with *Alice Smith*; and if they had not an end in it, they might as well have brought her to *Bedford*, being but twelve Miles, as to *London*, being 50 Miles. 9. *Martij* the Commiſſion

miſſion was executed at *Bedford*: 13. *Martij* executed at *Leiceſter*: 21. *Martij* adjourned and executed at *Lincoln*: 7. *Aprilis* executed at *Huntington*; and the very day that ſhe was examined at *London*, this *Alice Smith* they ſent unto her, and profered her Money, told her ſhe ſhould never want; ſhe went away in poor Habit, glad to borrow her Maids Cloaths, returneth again Gentlewoman-like, and lendeth Money. 13 *Caroli*

They ſay, when ſhe was at *London*, ſhe continued there keeping an Ale-houſe at *Whittingtons-Cat* till the Sickneſs in *Michaelmas-Term*, and then was forced to go into the Country; and all that time they might have examined her for the King, living in ſo open a manner. I agree, ſhe might have lived openly at *Whittingtons-Cat*, and be known to the Juſtices of the Peace for keeping of an Ale-houſe, or perhaps for her good Behaviour; but how the Proſecutor of the Cauſe ſhould come to find her, I know not: when ſhe was with her Husband, all his Goods had like to have been taken in Execution, and ſhe had not 40 *s.* to redeem them; yet ſhe had Means enough to furniſh an Ale-houſe, and to live afterwards Gentlewoman-like. But (my Lords) they have preſſed us how we bring theſe Charges home upon my Lord Biſhop, nothing fixeth upon him they ſay; God forbid he ſhould be charged, unleſs he be an Actor or a Procurer.

1. Obſerve theſe Retractations, and theſe variations in the Depoſitions, they were procured to maintain the Credit of *Prigeon*: It appeareth by three Witneſſes that have been read, out of my Lord Biſhops own mouth, that the mantaining of the Credit of *Prigeon* hath coſt my Lord Biſhop 1200 *l.* and another ſpeaketh of 1000 *l.* If this Charge come not home to my Lord Biſhop, why ſhould he conclude himſelf of expending 1200 *l.* to maintain his Credit; for it did concern my Lord Biſhop, for he was his Principal Witneſs in the firſt Cauſe.

Owen and *Powel* were the Servants of the Biſhop; and when in their Journey they could not prevail any thing with *Alice Smith*, then the account of this muſt be given to my Lord Biſhop, and *Walker* muſt write a Letter accordingly: *Cui bono*, ſay they, who ſhould receive benefit but *Prigeon*? *Prigeon* was the Principal Witneſs in the firſt Cauſe, my Lord Biſhop did maintain his Credit; it was no advantage to *Prigeon*, for the Baſtard-Child was ſubmitted unto. And then your Lordſhips have heard what a tampering hath been with *Richardſon*, and that by my Lord himſelf, who ſent for him to come and ſpeak with him before he was examined; and if he had prevailed with *Richardſon* upon this, there had been an end of the buſineſs, for the Retractation of *Anne Tub*, and *Alice Smith*, and *Wetherel*, had been as he would have it; then for the leading *Interr'* exhibited by himſelf in this Cauſe; ſo as I ſay theſe things things trench upon the Biſhop, and upon *Cadwallader Powel*, and *George Walker*, that were imployed about *Alice Smith*: he procured *VVetherel* to ſubſcribe a Note, would have the meaning of the words *Equivocation* and *Subornation* to be expounded; and this is the Man muſt give an account of the Proceedings with *Alice Smith* to the Biſhop; and all this appeareth upon his own Examination.

Theſe are the things upon the firſt Charge.

An. 1637.

I ſhall proceed to the ſecond Charge, my Lord Biſhop of *Lincolns* ſcandal of the publick Juſtices of the Seſſions, in ſaying the Order 3. *Octob.* was a Pocket-Order, made in an Inne or an Ale-houſe, and before any Witneſſes were examined. Your Lordſhips may remember, that upon this Charge we made Proof, 1. That the matter of the Order was reſolved by the whole Court. 2. That what Sir *Jo. Mounſon* did was at the open Seſſions, and at the deſire of the other Juſtices. 3. That my Lord Biſhop of *Lincoln* had notice of the due making of this Order, and was ſatisfied it was juſtly and duly made; yet when Sir *John Mounſon* was gone into the Country, he queſtioned it, that it was not made legally, but was a Pocket-Order made in an Inne or an Ale-houſe; proved by three Witneſſes.

That which hath been ſaid againſt this Charge, That the Biſhop had reaſon to queſtion this Order 3. *Octob.* for *J. S.* told him Sir *Jo. Mounſon* pulled it out of his Pocket upon the Bench; it appeareth by Dr. *Farmery*, *William Parkinſon*, and Mr. *Dalliſon*, that my Lord Biſhop was informed the Order was duly made, yet he doth publiſh it to be made in an Inne or an Ale-houſe.

Next place they ſay *Parkinſon* was a ſingle Witneſs,; he was no ſingle Witneſs, neither for the tampering, nor for the ſcandal: for it appears by *William Amcocks*, the Biſhop would have had the Order 3. *Octob.* impeached; and that if he were examined, he ſhould ſay nothing: *Richardſon* ſaid, that the Biſhop would have had him accuſe Sir *Jo. Mounſon* for the undue making of the Order; ſo as I ſay for the ſcandal, and for the tampering in this kind, *Parkinſon* was not a ſingle Witneſs; nor in the affirming that the Biſhop ſaid it had coſt him 1000 *l.* to maintain the Credit of *Prigeon*, for Sir *Thomas Mounſon* and *Smith* both ſwear the Biſhop ſaid it had coſt him 1200 *l.* and *Parkinſon* ſpeaketh of 1000 *l* and ſaith further, that the Biſhop threatned to bring him into the *Star-Chamber*, becauſe he would not comply with the Biſhop; but they ſay againſt *Parkinſon* he was prepared by an *Affidavit*. For that, I muſt remember unto your Lordſhips that this *Affidavit* was made by *Perkinſon* upon occaſion of the abuſe offered by my Lord Biſhop at the execution of the Commiſſion; at which time the ſecond Suit was not thought of, for it was doubted whether we ſhould proceed upon the *Affidavit* according to many Preſidents, or by way of Information, which was the cauſe of this Information. They ſay this Report might be raiſed by *Prigeon:* beſides, no time appears when this ſcandal was raiſed; they are miſtaken in this, for it appeareth by *Perkinſon* 43. *Int.* that the Biſhop ſaid 20. *Martij* 10 *Car.* it was a Pocket-Order, and made before Witneſſes were examined: and then *Richardſon Int.* 78. to the ſame purpoſe; and *E. Smith Int.* 78. that this ſcandalous Report was publiſhed in *March* 10. They ſay here was only a breach of a Promiſe; the Biſhop only made a Promiſe to Sir *Jo. Mounſon*, that his Order ſhould not be examined after he was gone into the Country; and will your Lordſhips puniſh a Man for the breach of a Promiſe: The breach of the Promiſe was not the thing, as the betraying of the Truth in the Kings Cauſe, and it was the policy of the Biſhop to ſend away Sir *Jo. Mounſon*, and afterwards draw it into queſtion in his abſence.

I do

13 *Caroli.*

I do not remember any more they have ſaid concerning this Charge. But now it appeareth upon this Charge, 1. That the Biſhop hath publiſhed that this Order was made in an Inne or an Alehouſe, before any Witneſſes were examined, to the ſcandal of publick Juſtice. That is the firſt offence in this ſecond Charge. 2. It is ſcandalous againſt his own knowledge proved by three Witneſſes. 3. His endeavour to ſuborn *Parkinſon*, 1. To ſend for him before he was examined, and would have had him ſay the Order 3. *Octob.* was made in an Inne or an Ale-houſe. 2. To affirm to *Perkinſon*, that ſome of the Juſtices had confeſſed as much, and did threaten him, that if he did not agree with the Juſtices, he ſhould be queſtioned in the *Star-Chamber*; and when he could not prevail with him, then he did direct him, if he were examined he ſhould anſwer only to the bare *Interr*; ſo in theſe Particulars my Lord Biſhop is concerned in this Charge. *Lunn*, he is concerned in this alſo, for he was imployed to ſpeak with *Parkinſon*, and kept him from the Church, leſt he ſhould meet with *Kilvert* who was an Informer: And *Int.* 5, he wiſhed *Parkinſon* to anſwer to no more than to the bare *Int.* and he ſhould be well paid for his pains. So as I ſhall leave this ſecond Charge, which doth reflect upon my Lord Biſhop and *Lunn*. And whereas they have pretended, that Sir *Jo. Mounſon* ſhould be an Enemy to *Prigeon*, there was no Proof at all of that in the Books; for in truth he was the beſt means to releaſe *Prigeon*, to get the Order in the *Kings-Bench*.

The third Charge is concerning the *Affidavit* of *Catlin* 11. *Maij* 11 *Car.* made a ſcandalous *Affidavit*, which was, that *Parkinſon* told him, he came to ſwear againſt the Biſhop, and that Sir *Jo. Mounſon* had promiſed him 100 *l.* for it, and he would ſwear home, and feather his Neſt by ſwearing againſt my Lord Biſhop. 1. Your Lordſhips have obſerved what manner of Perſon he was that made the *Affidavit*, he appeareth by the Sentence in the High Commiſſion to be a common Swearer, a common Bail, *&c.* ſo infamous, as I ſhall not need to repeat the thing in the Sentence; and for any thing ſaid to ſupport his Credit, nothing will ſway with your Lordſhips Judgments.

That that *Affidavit* is falſe, appeareth by *Parkinſons* Oath; and that it was contrived in an Inne in the preſence of *VValker* and *Moſtein* is plainly proved.

In this the Defendants Councel firſt make Objection againſt the Sentence, that this Sentence was after ſuch time as he was examined; and though he be convicted of a ſcandal ſubſequent, that doth no way blemiſh his Teſtimony: 1. I ſay, by the Sentence it doth appear it was for offences done three or four years before his Depoſition taken; ſo the Sentence was for matter of offence done before his Depoſition, and the Sentence is but *Declaratory* of what he was then: But they have read five Miniſters, that *Catlin* is a Man of good Credit, and one that preacheth well, and maketh a Conſcience of an Oath. 1. Theſe Witneſſes are but ſuch Witneſſes as we produce upon our Law-wager, or for Compurgators; they ſwear only as in common Charity: every Man is bound to think another Man honeſt, unleſs they did know the contrary, and ſome of theſe Witneſſes live a great way off, ſome 40 Miles. The main part of their defence hath been to diſcredit *Parkinſon*, and that they

An. 1637. have done two ways: 1. They ſay he was a diſguiſed Perſon, and came in a Miniſters Habit, and called himſelf by the name of *Parſon VVatſon*, to entrap *Catlin*, and therefore a Witneſs not to be believed. 2. They do pretend that *Parkinſon's* Depoſition was taken to fortifie his *Affidavit*.

For the firſt, this great Matter that he ſhould be a diſguiſed Perſon, and forſwear his Name, and call'd himſelf by the Name of *Parſon VVatſon*, and *Catlin* not to know him, the matter was thus.

When *Parkinſon* did ſee what an *Affidavit Catlin* made againſt him, he did ſay, that this *Catlin* did not know him; to that end and purpoſe, going wth Mr. *Culverwell* a Gentleman of 400 *l. per Annum*, went purpoſely into *Catlins* company to ſee if he did know him. We ſhall prove unto your Lotdſhips, that *Parkinſon* did not come in any diſguiſed Habit; true, he was in a black Suit, but in no Miniſters habit, nor Coat upon it, but in a black Suit proper for a Juſtice of Peace's Clark: Your Lordſhips will rather believe that which is judicially ſworn, than extrajudicially ſpoken. I ſhall deſire to read two or three Witneſſes to prove, that *Perkinſon* did not come in any ſuch diſguiſed Habit; which being read, Mr. Attorney proceeded, ſaying, 1. I ſhall obſerve, that the two Witneſſes, *Booth* and his Wife, ſwear he did not come in any Miniſters Habit. 2. It appeareth for half an hour together *Catlin* did not know *Parkinſon*, till Mr. *Culverwells* laughing at Parſon *VVatſons* profer to Preach at *Catlins* Church next day.

In this third Charge I ſhall obſerve, how it trencheth upon theſe Defendants, (1.) You find *Catlin* guilty of Perjury in making of a falſe Affidavit againſt *Parkinſon*; and that he hath been formerly indited of Perjury, your Lordſhips have heard by the Sentence in the High Commiſſion. *Walker* and *Moſtein* were preſent at the contriving of the Affidavit. It was all one to *Catlin* whether to ſwear againſt Sir. *Jo. Mounſon*, or Doctor *Farmery*.

My Lord Biſhop of *Lincoln* (it ſhould ſeem) did take this as a courteſie done unto him, for he did intend to give *Catlin* a Living of fourſcore pounds *per Annum*, but that he was adviſed by *Walker* to ſtay this Living till this Cauſe was heard. My Lord Biſhop writ his Letter unto *Richardſon* on *Catlins* behalf, that if any Indictment were at Seſſions againſt *Catlin* for a Common Barrator, he ſhould ſtay the ſame, and *Powel* his own Servant carried the Letter. Beſides Witneſſes ſwear *Catlin* did boaſt of his Favour from the Biſhop: he brought Gold home with him, beſides three pound given him to bear his charges.

I ſhall now proceed unto the fourth Charge, which ſtandeth thus: 20 *Martii* 10 *Caroli*, a Commiſſion was executed at *Lincoln*, and this was to examine him touching the credit of *Prigeon*; divers Witneſſes were there produced on the Kings part. My Lord Biſhop, and other the Defendants did draw from the Kings Witneſſes what they had depoſed, and threatned ſome of them after they were examined on the Kings part; this is the Charge.

Lancelot Harpham to the 94*th Inter.* ſaith, upon this Deponents Relation my Lord Biſhop willed *Lun* to Call for Pen, Ink and Paper, and wiſhed this Deponent to write down the ſubſtance of what he had ſworn, which this Deponent by his Lordſhips perſwaſions did; but when his Lordſhip had read the ſame he liked it not,

13 *Caroli.*

not, but wiſhed the ſaid *Lunn* to write down the Subſtance of this Deponents Relation, which he did accordingly, and then this Deponent ſubſcribed his Name thereunto; then the Attorney-General ſaid, here was the offence of the Biſhop to draw from *Harpham* the ſubſtance of what he had ſworn, the Charge being for tampering with *Harpham*, and other the Kings witneſſes. *Bates* ſaith he was ſent with a meſſage from the Biſhop to *Edward Smith*. Theſe things are laid as crimes upon my Lord Biſhop in this fourth Charge. (1.) In ſending for *Edward Smith* before he was examined, and conveying him out at the back-dore that my Lord Biſhop ſhould inſtruct him what to depoſe, ſending for him after examination, queſtioning him what he had depoſed, and told him he had ſworn maliciouſly. Next place was this Meſſage intended for *Edward Smith*. (3.) The threatning of *Edward Smith* the Kings Witneſs, that he would ſit upon his Skirts. (4.) My Lord Biſhops ſending for *Harpham* after he was examined, making him ſet down the ſubſtance of his Depoſition. (5.) *William Amcock* ſweareth that *Powell* ſhewed him an Interrogatory ready drawn to ſwear unto, and wiſhed him to be careful what he ſwore, when he was examined for the King; For *Lunn*, he ſaid, he never plaid the Knave but in this buſineſs.

As to the executing of the Commiſſion at *Lincoln* in *March*, 10 *Caroli*, wherein *Kilvert* was imployed to attend for the King: my Lord Biſhop of *Lincoln* called him *baſe Fellow*, *ſawcy Fellow*, *baſe Raſcal*, proved by three Witneſſes. The Charge is likewiſe againſt *Lunn*, who called him *baſe Fellow*, and told him *if the buſineſs were over, he ſhould know he was a man.* Theſe imperious Speeches from the Biſhop muſt needs diſhearten the Witneſſes that did come for the King.

Laſtly, As to the Charge for undue getting of Copies, to the intent to make a Counter-proof of the Kings Witneſſes. Your Lordſhips may remember how *Allen* gave Information to the King againſt the Biſhop, for the contriving of falſe News and Tales ſcandalous to the Kings Government. The Referrees that took the examination of Dr. *Jo. Lamb*, Dr. *Sibthorpe* and others, they did truſt Sir *William Beecher* in this examination; they gave him a Charge that the Examinations ſhould be kept ſecret, accordingly he ſealed them up, and when his waiting month was done, he delivered them over to Mr. *Trumbell*; yet by undue means my Lord Biſhop got Copies thereof. (1.) It appeareth by Sir *William Beecher*, *Inter.* 5. that he was moved by ſeveral perſons at Court, to let the Lord Biſhop underſtand the effect of theſe Examinations; and that my Lord Biſhop made uſe of thoſe Examinations, it appeareth by the proof that hath been read; and that the Seal was broken off, and Copies delivered to his Steward. Now whether theſe be not ſtrong preſumptions, that my Lord Biſhop had the ſight of them, I muſt leave to your Lordſhips.

My Lords, I have done with the particular Charges, and your Lordſhips have heard in the proſecution of this Cauſe, and in the proof of it a heap of Offences, all tending to the ſubverſion of publick Juſtice; a labouring, tampering, ſuborning, ſeducing and ſending away of the Kings Witneſſes to ſuppreſs the truth, to ſwear againſt the truth, and to cauſe Witneſſes to make a Retracta-

tion;

An. 1637. tion; a ſcandal raiſed againſt the proceedings of the Juſtices at the Seſſions, and in particular an aſperſion caſt on the perſon of Sir *John Mounſon*, as though he had made the Order in an Inn or an Alehouſe, before any Witneſſes were examined. I hope your Lordſhips will clear him in his Reputation, that he hath done nothing in this Cauſe but what becometh a Perſon in his place, and what at other times hath been done by him and other Juſtices in a publick manner. My Lords, theſe Offences, if they were committed by an ordinary Perſon are great Crimes in themſelves, but being done by my Lord Biſhop of *Lincoln*, who is *Prælatus*, to be a Guide, a Light, a Judge among the Kings People, and to have a ſuperintendent Cure of Souls within his Dioceſs, theſe things conſidered in his Perſon muſt needs aggravate his Offences, for him that ſhould be a Light, to become Darkneſs, and a Guide to lead men into Error, a Judge to overturn the Courſe of Juſtice, in ſuborning of Witneſſes, *&c.* Theſe things if they be not remedied will draw upon this Nation, that Infamy that was upon the people of *Greece*, that they would buy and ſell teſtimony, *Dare mutuum Teſtimonium*: But what followed upon that, but the ſubverſion and ruine of the Common-wealth? For him that hath this ſuperintendent Cure of ſouls, to do any thing for the deſtroying of *mens* ſouls, it is an high Offence. *Fleta lib.* 5. *cap.* who writ in the time of *E.* 2. *Si Perjurus, &c.* That the Man-ſlayer killeth the body, but the ſuborner killeth his own ſoul, and the ſoul of him that ſweareth.

(1.) Againſt my Lord Biſhop I pray Judgement, that he may be deeply fined, and receive a declaratory ſentence of this Court, as unworthy of any Eccleſiaſtical Dignity or Sacred Orders, and to be recommended to the High-Commiſſion for that purpoſe; *Paſ.* 34. *Eliz.* in a Suit in the Star-Chamber againſt the Biſhop of St. *Davids* for contriving and publiſhing of a forged Will, he was here fined and referred to the High Commiſſion for further proceedings.

10. *Jac. John* Biſhop of *Down* was convented before the High Commiſſion, and was there degraded for ſuborning of Witneſſes.

Third place, I deſire not only a Reparation of the Credit of Sir *Jo. Mounſon*, but damages for the ſcandal; and though he be neither Party nor Relator, yet damages have been given by this Court to a third Perſon.

Mich. 31. *Eliz.* Three Gentlemen that were no parties had 300*l.* damages given them as in the caſe of the Kings Attorney againſt *Price*, damages were given to a Sheriff that was no party.

Mr. Attorney-General having ended his Reply, the Court proceeded to paſs their Cenſure; —— and the Lord *Cottington* firſt begun and ſpake to this effect.

The

13 *Caroli*

The Lord *Cottington's* Speech.

My Lords,

Concerning the Biſhop of *Lincoln.*

'THe buſineſs we are now met about, to put a Period unto 'which hath taken up ſo much time already in this Court, 'that I intend to be very ſhort in what I have to ſay. If we go to 'the Well-head, and look at the Original, (from whence theſe 'foul Streams have iſſued) it is very ſmall, and the inconvenien-'ces my Lord hath faln into, are rather of his own ſeeking, than 'any ways properly offered unto him out of the former Paſſages, 'which touched his reputation in this Court: However that Maxime 'ſtands true, *Quiſq; eſt fabricator ſuæ fortunæ.* I am ſure in this, 'that through the whole Paſſage and Current of it, he hath 'ſought and wrought his own overthrow; and I am ſorry that ſo 'great a Perſon, ſo wiſe, and ſo well-experienced a Man, and one 'who hath ſate here himſelf, ſhould now come to be Cenſured for 'ſo foul Crimes, ſo far unbeſeeming his Function, and thoſe Dig-'nities he hath been graced withal in this Common-wealth. I 'find (all the way) ſeveral undue practiſes, many hainous at-'tempts, and foul faults in his Agents, countenanced (nay maintai-'ned and ſet on) by his inſtigation, for which I hold both him and 'them worthy the Cenſure of this Court.

'I promiſe brevity, therefore I omit the relating of any thing 'concerning the truth of the matter, which concerned *Alice Smith* 'and *Elizabeth Hodgſon.* If that *Prigeon* had been free from the 'getting of the Baſtard, and that he had ſuffered that way inno-'cently; it had been better for my Lord of *Lincoln* to have adviſed 'him to a patient undergoing that affliction, and have ſtopt the 'publick defamations, which might grow thereupon, with as little 'noiſe as he might, *Quam queat minimo:* But theſe ſtirs which 'follow after, and the great Expences which my Lord Biſhop of '*Lincoln* was at to preſerve *Prigeons* Reputation, plainly ſhewed 'there was ſomewhat more in it than ordinary, when, rather than 'that ſhould be tainted, my Lord would abſolutely overthrow his 'own.

'*Prigeon* was to be a Witneſs for my Lord Biſhop, and a main 'perſon he was, on whom he depended for the clearing himſelf of 'thoſe Charges, which your Lordſhips know he was taxed withal, 'by the firſt Bill. In the mean time a Baſtard is laid unto him by '*Elizabeth Hodgſon*, which in my Lords Eſtimation was much diſa-'bling to *Prigeons* Teſtimony; and therefore my Lord Biſhop what 'doth he? He not only labours to ſuppreſs a Truth, and to conceal 'a fault in his Witneſs, but he will have him diſcharged of it, *Quo* '*jure quave injuria*, it matters not.

'Hereupon the Proceedings of the Juſtices of the Peace muſt be 'either made none, or put out of order, ſo that they ſtand in-'ſtead of none. A new Father muſt be found, and becauſe there 'was a Commiſſion to be ſate upon, and Witneſſes to be examined, 'ſome muſt be abſented till the Commiſſion was over: others are 'deterred and threatned, and Sir *John Mounſon* and Dr. *Farmary*

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'muſt be held for to act nothing that muſt ſtand in this Cauſe, '(though in the publick Seſſions) but their Orders in that Cauſe 'are Pocket-Orders.

'*Owen* and *Powel*, two Servants to my Lord Biſhop of *Lincoln*, 'they ſet their Wits to work to convey *Alice Smith* out of the way, 'and that with Rewards of no ſmall value. Letters are written, 'and much ado there is; the ſeveral Miſdemeanours of *Lunn* and '*Walker* are apparent enough; and *Catlin* he comes not behind the 'reſt, nor muſt I let him paſs, although he hath better luck in the car-'riage of his knavery than any of the reſt; and for the procuring, 'gaining, and keeping of Depoſitions from the cuſtody of the 'Council-Table, and the Clarks there, it's plain enough, I will 'make my word good, and go to Cenſure.

'*Cadwallader Powel* I fine at 200 *l.* *Owen* I fine at as much; *George* '*Walker* and *Catlin* at 300 *l.* a-piece.

'*Lunn*, (who is an Agent in all the Buſineſs) I hold him unfit 'for to be an Officer any more, (he now being a Proctor-Regiſter) 'I fine him at 300 *l.* And for my Lord Biſhop of *Lincoln*, I fine 'him at 10000 *l.* to the King, and to be Impriſoned in the *Tower* 'during His Majeſties Pleaſure, and to be ſuſpended from all his Ec-'cleſiaſtical Functions, both *ab Officio & Beneficio*; and I refer him 'over to the High Commiſſion-Court to Cenſure him as they think 'fit concerning his Degrees, and to repair Sir *John Mounſons* Re-'putation, to pay him for the injury done to him, in particular '1000 Marks.

Sir John Finch *his Speech.*

My Lords,

'THis Cauſe hath held us already nine days. I find in it ſix 'Charges.

'1. The firſt and main is for tampering with Witneſſes, to re-'tract their Teſtimonies, or to vary from the ſame.

'2. For ſeducing them not to depoſe at all.

'3. For undue practiſing to gain a ſight of ſome Examinations 'kept in the Council-Chamber by the Clarks of the Council.

'4. For preparing and inſtructing Witneſſes by the ſaid Exami-'nations.

'5. Perjury in *Catlin* in an *Affidavit*, and ſubornation thereof.

'6. Other undue Proceedings, whereby to cauſe Witneſſes to ſay, 'that they did not remember, or the like.

'I will only inſiſt upon two things.

'*Firſt*, How this trenched upon my Lord Biſhop of *Lincoln*.

'*Secondly*, How far, and in what manner he purſued it.

'I queſtion not whether the Child gotten upon the Body of *E-'lizabeth Hodgſon* be *Prigeon*'s, yea or no; however the Juſtices of the 'Peace at the Seſſions, Doctor *Topham* and Doctor *Farmary* give up, 'that it is laid to him: Yet legally *Prigeon* is free, for by a *Statute* '18 *Eliz.* though the Order be, yet an Appeal may be made. Now 'in the ſecond place, what is this to my Lord Biſhop of *Lincoln*, '*utrum pater ſit necne*?

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13 *Caroli*

'The Biſhop is taxed for ſcandalous words in matter of State, 'contrary to his Duty as a Subject to his Sovereign, contrary to his 'Oath as a Privy-Councellor. Now *Prigeon* being a Witneſs, 'muſt juſtifie that no ſuch fault ſlipt from my Lord Biſhop, his Teſti-'mony, which ſeems to be ſuſpected, and why? not for the ha-'ving a Child fathered upon him, but for that he goes about in '*publico* to ſuborn Witneſſes, and to wreſt the Truth by unlawful 'courſes, and it is to be thought that he, who was of ſuch an evil 'Conſcience, as that he would cauſe others, by any way of bribes, 'gifts, threats, or the like, to forſwear themſelves, and hazard 'their Souls, might himſelf eaſily be tampered withal to do unjuſt 'Acts, and to take that falſe Oath alſo by himſelf, being led to it 'by Hopes and Rewards, which he by all means ſought to procure 'in others, for his own ſafety.

'Now if my Lord Biſhop of *Lincoln* had uſed other means, and 'gone the right way to maintain the Credit of his Witneſſes in a 'fair manner, it had been commendable; but whether he did ſo or 'no it is to be inquired after.

'By the way, my Lord, give me leave to ſay what I think, it is 'not always neceſſary in this Court to have a Truth proved by two 'or three Witneſſes: Men will be wary in Bribery, and Extortion, 'and the like, to do it in publick, or to have many acquainted 'with thoſe works of darkneſs. And *ſingularis Teſtis* many times 'ſhall move and induce me verily to believe an Act done, when 'more Proofs are ſhunned.

'But to come to ſome of the Particulars, I find here, that *Wetherel* 'hath been often tampered withal, by two of the Biſhops Servants, '*Owen* and *Powel*, and there was a Note ſhewed to *George Walker* 'to enquire of *Wetherel*, whether *Prigeon* had done any thing with 'him or no?

'But to take off this, (Mr. *Recorder* ſaith) *George Walker* is *ſin-'gularis Teſtis*. Now its plain *Wetherel* ſwears punctually, that he 'met with *Prigeon*, and was adviſed to ſpeak ſparingly, and no more 'than he needs muſt.

'For *Alice Smith*, ſhe depoſeth that *Prigeon* wiſh'd her to win *Eliza-'beth Hodſon* to lay it to ſome body elſe, and he would give her 20 *s.* 'and ſo doth *Anne Dove*; now *Alice* muſt afterwards equivocate, 'and ſay, ſhe was profered Money to get her to lay it on the right 'Father, which to induce her to is no hurt.

'And I find, that *Alice Smith* is carried away on Horſe-back by '*Powel*, and abſented till the Commiſſion was ſet, and was paſt, at '*Lincoln*, and then brought back again by *Powel*. And I find ſhe 'went out poor and needy, ſhe returns well clad, Gentlewoman-'like, and able to lend 8 *l.* at a time, who was (before *Owen* and '*Powel* tampered with her) ſo poor, that her Goods were diſtrain-'ed upon for Rent.

'*George Walker*, he ſaith he could do no good with them, and ſo 'writes to the Biſhop. Now for *Richardſon*, the Biſhop told him, 'that he knew the Orders that were made at the Seſſions, and *Ri-'chardſon* is tampered withal to ſuppreſs that Order, and told, that if 'he would, he might do the Biſhop good Service.

'Now for *Lunn*, I find him run through with the Biſhop in all 'the Caſe, he teacheth to ſmother and to equivocate; ſo that I find

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'*Powel*, *Owen* and *Walker*, guilty of the firſt Charge; *Lunn* I ſhall 'Sentence, but not for that Charge.

'Now my Lord himſelf, out of his own mouth, profeſs'd to two Witneſſes, *videlicet*, to Sir *John Mounſon*, and one *Edward* '*Smith*, that to defend *Prigeons* Credit it had coſt him 1000 *l.* if 'not 1200 *l.*

'My Lord Biſhop excepts againſt ſome Witneſſes, as *Bates* I 'hold him faulty, and for Mr. *Kilverts* miſdemeanours, (though 'he did provoke my Lord) yet he ſhould have forborn. It was not 'ſo much to affront my Lord Biſhop, as to animate his Witneſſes for 'the King, which the preſence of ſo great a Perſon might have 'daunted.

'And your Lordſhips know, that in the Circuit, if a great Man 'have a Cauſe at the Bar, he is not to ſit on the Bench, his nod or 'frown, nay his bare Preſence, (by way of obſervation) may do 'much with inferior Perſons. I diſcommend my Lord for his paſſion, 'and commend *Kilvert* for the zealous proſecution of his Cauſe. I 'muſt clear Sir *John Mounſon*, and for *Pattiſon* diſguiſing of himſelf 'in the Habit of a Miniſter, (true it is, a ſhift they had to find out what 'might be;) But the matter was apparent to all they know he was 'a counterfeit.

'And for *Catlins* Teſtimony, I weigh it not; but I find my Lord 'tampering with *Smith*, with *Edward Smith*. He muſt be brought 'in by Mr. *Moſteon*, and at the back door too, and after that he had 'taken his Oath, was told he had ſworn maliciouſly, and was advi-'ſed before-hand what to ſay, and the Biſhop chid him, and ask'd 'why he would be ſworn and not acquaint him, and let him know 'before; and there is many Proofs of my Lord Biſhops dehorting 'and terryfying others.

'For *Walker*, I ſhall not Cenſure him, being not the manner of 'this Court to Cenſure, when he is not charged with any particu-'lar, but in general.

'For *Lunn*, I find him threatning Mr. *Kilvert*, and I find him 'tampering divers ways, and getting the Writings from the 'Clarks.

'I agree with my Lord *Cottington*, and fine him 1000 Marks. I 'clear *Moſteon*. *Catlin* I leave with a *non liquet*; and do cenſure '*Lunn* to be diſabled, (by way of his profeſſion) either to be Regi-'ſter or Proctor any more.

'For *Cadwallader Powel* and *Owen*, I agree with my Lord *Cot-'tington*.

'And for my Lord Biſhop, I cenſure him 10000 *l.* Fine to the 'Kings Majeſty, to be ſuſpended *ab omni officio & beneficio*, during 'His Majeſties Pleaſure, and likewiſe to be Impriſoned in the *Tower* 'during the Kings Pleaſure, (as my Lord *Cottington* ſaid before;) 'alſo for to repair the Credit of Sir *John Mounſon*, I fine him 1000 'Marks to him; and ſure, My Lords, his Perſon doth not diminiſh, 'but rather aggravate his faults: for to be faulty in ſcandalizing his 'Maſter, and then ſuborningly to boulſter up his fault, by ſuch groſs 'and unbeſeeming manner, is worſe in him than it had been in ano-'ther Man.

'For as Mr. Attorney well noted, for him that is ſet to have a care 'of Souls, to be corrupter of them; for him that is ſet as a Light

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'on a Hill, to hide the Truth; I call to mind his Greatneſs, his 'Place and his Dignity: but had he lived a private ignorant Man, I 'ſhould have gone very deep with him; but he that hath knowledge 'to rectifie himſelf, and hath ſat in the place to direct Conſciences, to 'wreſt and wrong Conſciences, I muſt go as deep full in every 'thing as my Lord *Cottington*, and I ſhall here crave your excuſe, 'and end.

Sir John Bamſton *his Speech.*

'I Believe, my Lords, that the Lord Biſhop is guilty of three of 'the Charges, and I conceive he had a ſight of the Writings 'from the Council-Chamber.

'I find him procuring ſome to abſent, to deter others, and all to 'ſupport *Prigeons* Credit. *Alice Smith* firſt depoſeth, that *Prigeon* 'offered her 5 *l.* to prevail with *Elizabeth Hodgson* to lay the Child 'to any other Man.

'Now my Lord Biſhop he muſt intermeddle to ſupport his Credit. 'I diſallow of his tampering with *Wetherel*; to wiſh a Witneſs to 'keep away, or to wiſh him to ſay leſs than he knows, is not juſti-'fiable; it not ſo much concerned him, but it ſeems he thought it 'did, and therefore he muſt ſpend 1000 *l.* or 1200 *l.* to make that 'good: So Sir *John Mounſon* and *Alice Smith* depoſeth, *Alice Smith* 'is fetched, and carried, and maintained, enriched by the Biſhops 'Servants. I find many ſhifts in my Lord Biſhop to effect his de-'ſire; it's plain ſhe went away poor, returns rich. *Wetherel* muſt 'muſt be tampered withal, is alſo plain by ſeveral Confeſſions.

'Now to the ſecond Charge, the ſlander is laid on the Juſtices: 'Sir *John Mounſon* ſat openly in Court, the Order apparently made, 'yet the Biſhop ſtrives to ſuppreſs it. He uſeth all the ways he 'can, either by fair inticements, or by foul menaces and threats, to 'have them in the *Star-Chamber*, *&c.*

'Now, my Lords, however he prevailed not, yet he attempted, 'he endeavoured ſubornation of Perjury: And wiſely did Mr. At-'torney to lay the Charge in that manner he did, for undue and un-'juſt undertaking to ſuborn Witneſſes, it's a Crime equal, (though 'he effect it not) yet it's *maleficium condemnationis*, and is cenſu-'rable.

'I find my Lord Biſhop of *Lincoln* much too blame in tampering, 'perſwading, threatning, and directing of Witneſſes. A foul 'fault in any, but in him moſt groſs, who hath *Curam Animarum*, 'throughout all his Dioceſs. To deſtroy Souls is moſt odious, and 'to be ſeverely puniſhed.

'To proceed therefore to Cenſure, I meddle not with *Bates* his 'Teſtimony, but I ſhall fine *Powel* 300 *l.* I clear *Moſtein*: And for '*Lunn* I ſhall fine him 1000 Marks, and to be diſabled alſo from his 'Function. And for my Lord of *Lincoln*, I hold him not fit to have 'the cure of Souls, and therefore I do Cenſure him to be ſuſpended '*tam ab Officio, quam a Beneficio*, and agree for the Fine of 10000 *l.* 'and Impriſonment during the Kings Pleaſure. And for Sir *John* '*Mounſon*, I find he hath done nothing but as he ought, and there-

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'fore I hold it fit his Credit ſhould be repaired, and to that end 'I ſhall agree with my Lord *Cottington* to give him 1000 Marks.

Mr. Secretary Windebanke *his Speech.*

'IT's needleſs for me to relate the Buſineſs, or to declare the name 'of the Crime for which this great Perſon is Cenſured here in 'this Court. To free your Lordſhips from any further trouble, '(having ſeriouſly conſidered the matter) I do find not only my 'Lord Biſhop himſelf, but alſo his Agents faulty; and therefore 'for the Fines, Puniſhments, and Impriſonments both to him and 'them, I agree in all with my Lord *Cottington*; and for Sir *John* '*Mounſon* alſo.

Sir Thomas Germine's *Speech.*

'I Agree with my Lord *Cottington.*

The Earl of Lindſey *his Speech.*

'I Do agree with my Lord *Cottington in omnibus.*

The Earl of Arundel's *Speech.*

My Lords,

'THe Cauſe is great, the Perſons eminent, the Proſecutors '(as in relation to the King) to be reſpected. The Perſon 'that now is on the Stage to be Cenſured, one of the grave Biſhops 'of the Realm, one who himſelf hath born ſway, and hath ſat in 'a high Office under two Famous Kings, and now comes to be 'Cenſured for undue Proceedings in matter of Juſtice. He who 'had the protection of Equity, now hath turned to be a ſubverter 'of Right, and an oppreſſor of the Truth, by concealing her from 'that ſhe delights in, the Light: unduly menacing, deterring, and 'debarring Witneſſes in a Cauſe of ſuch a nature, as concerned ſo 'great a Perſon as the greateſt we have to do withal (under God) 'on Earth. I proteſt I ſpeak it with grief, I am ſorry for his Perſon, 'much more for his Profeſſion, no Child being more reverent to a 'Mother, than I am tender of the Church, and of that Coat: But 'upon ſuch blemiſhes to forbear Cenſure, were to allow of them: 'I do therefore agree with my Lord *Cottington* in the Fine, Impri-'ſonment, and in all the reſt.

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The Earl of Mancheſters *Speech.*

My Lords,

'I Cannot but admire to ſee, that a Man of that eminency for 'Parts and fortune to overſhoot himſelf ſo far, and to be tran-'ſported in ſo ignoble a way, as my Lord Biſhop of *Lincoln* hath 'been, that he would undo his own to maintain the Credit of ano-'ther Man.

'Give me leave a little to unfold the occurrences, that it may ap-'pear how this came about, and what occaſioned this his ſo groſs 'an Error.

'About the fourth Year of His now Majeſties Reign, a Bill was 'exhibited into this Court againſt my Lord Biſhop of *Lincoln*, the 'Complaint was about matter of State: Now *Prigeon* was a main 'Witneſs for the clearing my Lord from being held guilty of what 'was thus alledged.

'The Bill was ſlow-paced, and ſlept from 4 till almoſt 8 *Car. Re-'gis*, and now a Provocation begets an Information *November* the '8*th*; and in *February* following the Baſtard is born, here is a touch 'upon *Prigeons* Credit, this matters not to the Biſhop for ought we 'ſee; but in *May* following it muſt be laid on another Father, and 'one *Boone* is found out for the ſame purpoſe, and it muſt be father-'ed on him. The Juſtices of Aſſize publickly ordered, and ſet it 'down, that it is laid upon *Prigeon*, and hereupon he is thought 'to be diſabled of his Teſtimony for the Biſhop of *Lincoln*, if he 'have occaſion to uſe him, for his clearing in caſe of thoſe accuſa-'tions and informations laid againſt him.

'Whereupon this *Prigeon* muſt be ſet upright, and made an ho-'neſt Man, and be rectified, (though it be by indirect and unlawful 'means;) nay moſt unconſcionable Courſes, by wreſting the Con-'ſciences, and falſifying Oaths for the ſame.

'Now, my Lords, your Lordſhips well know, that every Mans 'State, every Mans Credit, his Poſſeſſions and Livelihood much 'depends upon Oaths; for if not upon the Jurors, yet the Wit-'neſſes in any Caſe of Evidence, (be it for matter of Title, or mat-'ter of Fact) if they be by ſiniſter Courſes, and by Bribes and 'Threats, (be it for fear or for love) if they be cauſed to ſwear a-'gainſt their Conſciences, and that tye be takenaway whereby they 'ſtand obliged before God and Men to give Right to the Truth, no 'Man is ſure of any thing he enjoys, nor can expect to get any thing 'that is unjuſtly detained and with-held from him in the Proceeding 'of any Court whatſoever.

'And I find my Lord Biſhop much too blame, and indeed no 'more than an Abetter in many Paſſages of this Cauſe tending this 'way.

'There be ſix faults he is charged withal, and I find him faulty in 'three great ones.

'For his tampering with Witneſſes it's plain enough, and I am 'ſorry it breaks out ſo in all the way as the Cauſe goes. 1. In 'withdrawing Witneſſes, and abſenting them out of the way.

'2. In

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'2. In preparing, fitting, and diſpoſing Witneſſes to his own ends. '3. In deterring them before they are to take Oath, and threatning 'them after. 4. In ſifting out unlawfully (by indirect and ſiniſter 'Courſes) what Evidence and Proof was given, ſo to be better 'enabled to have croſs Oaths and Proofs againſt the Evidence that 'was before. 5. To cauſe Witneſſes to ſpeak leſs than they know, 'and to conceal the Truth, or at leaſt to vary from that which they 'had formerly ſworn. 6. Getting the Copies out from the Clarks 'of the *Star-Chamber*, and keeping them a long time from that place, 'where they ought to be and reſide.

'Now for a Man of Art, of a prompt and ingenious Wit, a well-'experienced Man, who hath been a Judge, and well knew the 'Inconveniences of theſe defaults, and the groſneſs of them, to 'run into them ſo violently, and ſo foul, I cannot but admire, and 'much pity him.

'Nay, he doth take upon him to defend, and to patronize *Catlin* 'too, although it be abſolutely to overthrow and undo himſelf. 'But as it is ſaid, *Nemo Læditur niſi a ſeipſo*, if my Lordſhip had 'not been over-buſie for to do thoſe Men good, he had never done 'himſelf this harm.

'Now for *Kilverts* affront to him, I muſt needs ſay it may ſeem 'over-much in the place where it was done, being in the chief place 'of the Dioceſs, and to his own Perſon: But being it was in ſuch 'a Cauſe, where Witneſſes were to be heard and examined for the 'King, and my Lord being a great Man in that place, I paſs it by, as 'his zeal and earneſtneſs in proſecution of the Cauſe, which might 'elſe have ſuffered, had he not uſed the better courage, and put the 'better face upon it.

'For the getting the Writings from the Council-Chamber it's 'plain enough, and they were abſent long enough, and whether 'he had uſed or peruſed them it matters not; ſurely he would not 'have them gotten from their due ſtation, and place of abode, on-'ly to lie by him, but that he would make uſe of them. And I 'muſt needs commend Sir *William Beechers* diſcretion and ingenuity 'for his courage in that Particular.

'Your Lordſhips have heard already by the two Lord-Chief-Ju-'ſtices, what the nature of theſe Crimes are, (though it be not 'ſubornation of Perjury) yet it is manifeſt injury to the witneſſing 'of a Truth; and I ſuppoſe both they that do prevail, and they that 'are over-ruled and won to ſuch diſhoneſt Courſes, are much faul-'ty; and therefore I ſhall agree with my Lord *Cottington* for 'the Fine upon the two Servants of my Lord Biſhop, *Owen* and '*Powel*.

'And alſo I fine *Lunn* in 1000 Marks; I clear *Moſtein*, and I muſt 'not let *Catlin* eſcape, (if I can legally do it) but he hath better 'fortune than the reſt, though I think not a whit leſs culpable.

'And for my Lord Biſhop, I muſt, for his Fine, Impriſonment, 'and ſuſpenſion from his Dignities, Offices, and Benefices, agree 'with my Lord *Cottington*, and ſo in all the reſt.

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The Lord Treaſurer *his Speech.*

My Lords,

'THis Cauſe hath held a great time, your Lordſhips have had much patience and great attention, and applied your ſelves 'to give ear to the defences that have been made therein, which 'have been very well performed by the Counſel on my Lord Biſhops 'behalf.

'The Cauſe is great, a great Man that is this day ſentenced, and 'in a matter of very high nature for me (my Lords) to run over 'the ſeveral Charges, and to explain how and wherein I find my 'Lord Biſhop and his Agents culpable, and very well deſerving the 'Cenſure of this Court for their Crimes, it were bootleſs, nay altogether needleſs to inſiſt upon the tampering with *Alice Smith* 'and *Wetherel*, with the undue Practiſes of *Lunn*, *Owen* and *Powel*, 'theſe things have been copiouſly ſet out before, and for me to repeat, or to make any relation of my obſervations in the occurrences and paſſages of the Cauſe, it were but *Actum agere.*

'The buſineſs falls out very unhappily, and all the way carries 'with it a reliſh. My Lord Biſhops encouraging and ſetting on 'the ſeveral Agents, that were uſed for the clearing and juſtifying '*Prigeons* reputation; ſo that in the proſecution of the matter, 'probable ſurmiſes come to be violent and forcible inſtigations; 'and whereas my Lord Biſhop ſtrives to ſuppreſs a fault, which is 'like to redound to *Prigeons* diſeſteem; my Lord utterly overthrows his own Credit, and labouring to take a ſtain out of anothers Face, opens ſeveral Scars and Ulcers in his own.

'My Lord Biſhop might better have let the Truth have been bolted out, than ſo ſmother it, as to injure his own reputation, and 'cauſe himſelf to undergo far heavier and fouler aſperſions, than 'the Crimes in his Witneſſes could ever have brought upon them or 'him.

'I much pity him, and I am heartily ſorry that he was ſo overled with deſire, as ſo hotly to purſue a thing that might with a 'great deal of more diſcretion have been let alone.

'And truly I conceive it is now apparent to him, and he himſelf 'is ſorry for his own intemperate proſecutions; and I hold no Cenſure can be ſo heavy to him, as that your Lordſhips ſhould hold 'him Cenſurable, and that he ſhould now incur the diſlike and condemnation of this Court, wherein he hath ſate as eminent in 'Place and Dignity, as the reſt that now are to paſs Sentence upon 'him.

'What Cenſure therefore my Lord *Cottington* before me hath given, both for *Lunn*, *Owen*, and *Powel*, both in number, rate and 'weight I agree unto; and ſo I do alſo for the Fine upon my Lord 'Biſhop of *Lincoln*, his Impriſonment during the Kings Pleaſure, 'and the reſt.

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The Lord Arch-Biſhop of Canterbury *his Speech.*

'SOrry I am (my Lords) that ſuch a Man as my Lord Biſhop 'of *Lincoln* for profeſſion; and ſorry that he, being ſo wiſe, 'ſo diſcreet and underſtanding a Man every way, ſhould come to 'ſtand culpable of ſuch faults as ſhould deſerve the Cenſure of this 'Court, and in this nature, that it ſhould fall out that by being 'over-active and over-doing Buſineſſes of other Mens, to do his 'own, nay even thereby alſo to undo himſelf.

'We have Adverſaries too too many amongſt our ſelves, but this 'days work opens a way for the *Romaniſts* to take advantage by it, 'to ſee ſo eminent a Perſon as a Biſhop, and ſo eminent a Biſhop as 'he, to become thus cenſurable in a thing of ſo high a nature in 'this high Court, it opens way I ſay to them of rejoycing, which 'I would to God had not been at all, or at leaſt not by him.

'When I look upon and conſider his excellent Parts, both of Na-'ture, and atchieved unto by Study and Art; when I think upon 'his Wiſdom, Learning, agility of Memory, and the experience 'that accompanies him with all thoſe endowments, it puts me to 'ſtand; that after he had been overtaken in one error in the firſt 'Cauſe, he ſhould not have recalled himſelf, and made a ſtand, 'but that he hath now run into a far worſe, and more deſperate a 'one in this Cauſe, by obnoxious and criminal ways, even to a 'very precipitation and downfall of himſelf and his Credit. What 'though there was ſome queſtion made, and ſome Proofs on foot, 'whereby his Loyalty to the King his Maſter ſeemed to be in de-'ſpute, and his diſcretion might have ſome ways come to tryal in 'matter of words, diſcovering his affection in ſome matter of State? 'muſt he ſeek unlawful means to procure his Actions and Words to 'be lawful, and leave the courſe of a good Conſcience to bolſter up 'a fancy of innocency in another Man, and make himſelf plainly 'faulty, for to make another Man ſeem free from ſhame? I could 'wiſh heartily from my heart (however this Cauſe be, let it be as 'it is) that his deportment in paſſion had been like to that of St. '*Sicelia.* I read it in a very good Author, and it is not impertinent, 'nor unworthy whatſoever patience, when a great ſtir there was, 'and all the Stream and Current run quite againſt her to bear her 'down in a moſt furious and violent manner, ſhe mildly in the heat 'of theſe Storms, and when thoſe Billows ſeem'd to overwhelm 'her, and hide her from all hopes of being admitted hearing her to 'plead her innocency, much leſs to gain ſucceſs to her deſires, it being 'told her there were many Witneſſes againſt her, but none that did, 'or would be, or ſeen to appear for her, or in her behalf. She uſed 'the ſaying of holy *Job*, *Teſtis meus eſt in Cœlis*, my Witneſs is a-'bove: and ſo it fell out, for (as the Story ſaith) when the mat-'ter came to be ſcanned, the Witneſſes that were againſt her, (by 'what means, or from whence, or how, I know not) but they 'were ſo daunted and ſtruck with ſuch an amazement, that it was 'their general Vote, *Nos nihil habemus contra Ciceliam*, I have it 'in St. *Auguſtine*, a Father of the Church, whoſe Authority there

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'is no doubt off, he being held learned amongſt the beſt of that 'time) *lib.* 1. *contra hæreticum donatum.* It had been better with 'my Lord Biſhop if he had had ſuch a Cauſe: I am ſure if the 'circumſtances of his behaviour had been more temperate and 'mixt with more patience, the event could not have been ſo un-'lucky, and his Cenſure ſo ſharp, as it is now like to be.

'I may be bold to ſay it, my Lords, for it's no untruth; I have 'been five ſeveral times upon my knees to the King my Maſter in 'his behalf, I delivered for him ſeveral Petitions my ſelf into the 'Kings own Hand, and I then did that (which had I known what 'now I do) I ſhould not have done. I ſent him under my own 'Hand the Kings Anſwer upon every Petition. And after all thoſe 'five ſeveral Services, I muſt tell you, my Lords, I was but courſly 'dealt withal, nay very ill requited; yet was I overcome to move 'again at *Chriſtmas* laſt, and I have it under his own Hand, or (if 'his Secretary writ the Letter) his own Hand and Name is un-'derſcribed, that he had better and more hopes by my once moving 'the King, than he had formerly had, by the ſolicitation and means 'of all the friends he had at Court.

'And no longer ago than at *Chriſtmas* laſt I moved the King my 'Maſter again in his behalf; and then (had he ſolicited that which 'was intented for his good, and proſecuted the ſame with ſubmiſ-'ſion) it had in all likelyhood gone better with him than he could 'have expected, nay I think, as the caſe ſtood, better than he then 'deſired.

'But a croſs Buſineſs came juſt in the way at the very time, (of 'which your Lordſhips, or the moſt part of you, I am ſure, are 'privy to) and had not I then interpoſed my ſelf, (the King being 'then ſo exaſperated againſt him) he had faln. But to let paſs my 'deſires, and the earneſtneſs I uſed, and the tenderneſs I had, leſt 'my publick aſperſion ſhould have been opened, and ſuch as could 'not have been wiped away, but needs muſt have left a ſtain to my 'Coat.

'I muſt needs ſay thus much for His Majeſty, he was very inclina-'ble to have had a fair reconcilement, as may appear by His often 'asking *what* Lincoln *did, doth he ſeek to repair my Credit? Hath he 'any ſhew of ſorrowfulneſs for his fault?* And, my Lords, I may ſafe-'ly ſay (becauſe I truly ſpeak it) who ever penned his Petitions '(howſoever they ſeemed to be his Friends, or whoever adviſed 'him to let them paſs in that form) they did him (though que-'ſtionleſs he is able to Pen them himſelf) an injury, yet if he did 'it by advice they were not therein his Friends, for in them all 'there is not one word tending to ſubmiſſion and confeſſion, or ſo 'much as an acknowledgement of a fault, whereby any ſhew of 'Recantation in that nature might be made to his Majeſty, as both 'in duty he ought, and in wiſdom might have made proffer of, and 'with more ſafety and aſſurance have performed, inſomuch as that 'by his ſtiff and ſtubborn behaviour, there was no way but to have 'the buſineſs fully ript up, heard, and decided.

'Yet there were not wanting divers ill diſpoſed perſons, who 'bruited it forth, and very boldly gave out, that my Lord Biſhop 'of *Lincoln* had not made any fault, or done or ſpoken ought, but 'that which he could ſtand unto, and needed not to be aſhamed of,

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'only that he was rich and muſt be let blood, he might well ſpare it, 'and the King wanted 10000 or 12000 *l.* and ſo he ſhould have 'little ſaid to him, if it was once condeſcended unto, and either 'given by him, or gotten from him. But howſoever theſe Reports 'go, the King is juſt as he is honourable; and though he was in-'clined to mercy (for ſo the Biſhop of *Lincoln* had found it, if he 'had ſought it ſeaſonably) yet now you ſee, there is cauſe, and juſt 'cauſe of cenſure, and in a very high nature of deſert in him to be 'ſentenced by this Court.

'Now for the nature of the cauſe, the ſeveral charges of the 'proofs, and the defences alſo that have been by the Lord Biſhops 'Council, hath fully and amply been opened by the two Lords 'Chief Juſtices, and if I ſhould attempt any thing this way, it were 'but needleſs labour to my ſelf, and would breed a tedious trouble-'ſomneſs to your Lordſhips, *dictum dicere* would be all, when I had 'ſaid all.

'I leave to meddle with the manner of the proceedings, and muſt 'give Mr. Attorney a great and large Commendation, and Mr. Sol-'licitor alſo for their wiſe ſtating of the Cauſe, and for their wiſ-'dom, wit, temper, and patience in the proſecuting of the ſame.

'The matter is ill, and howſoever it perhaps be not ſubornation of 'Perjury, yet to tamper with Witneſſes, to threaten, deter, affright, 'corrupt or to ſilence, or abſent thoſe that are to witneſs a truth, 'and to give evidence in a Court of Juſtice are *ejuſdem naturæ*, a 'very foul Crime and a moſt odious and deteſtable Fault, in any 'man of what condition ſoever he be: and if theſe things be ſuf-'fered and may go unpuniſhable, no ſtate can ſtand, and it deſtroys 'the intereſt of *meum & tuum*, and no man is ſure of what he holds, 'or can ſay whether he hath an eſtate or no.

'It's a point that ruins all right, and is the utter Enemy and Sub-'verter of all Juſtice, and muſt needs overthrow any State, where 'it is not weeded out and prevented by ſevere *Animadverſion* and 'corrections when it happens to be found out.

'*Eirſt*, It deſtroys *Maximum Mandatum* the great Command-'ment given by the great Lawgiver, God himſelf, *Thou ſhalt not 'bear falſe witneſs*; in the fifth of *Leviticus*, if a man know a truth 'he is not to conceal it; nay, he is to witneſs it.

'In the 23*d.* of *Exodus*, a man is not in any caſe to bear unjuſt 'witneſs, and ſo in the ninth of *Deuteronomy*, it is in *Criminalibus*, 'and he that did bear falſe witneſs was to ſuffer *per legem Talionis* 'that ſame puniſhment and loſs, which by his falſe Teſtimony the 'other Party had undergone.

'In all the time that paſſes from the Creation of the World until 'the Law, I do not find that the Holy Ghoſt once made mention of 'any, that attempted in this way. I find no ſhadow nor overture 'of any ſuch Crime; the corruption of nature had not then grown 'to the height, and ſo over-fowed the Banks, as to break out ſo 'outragiouſly, and produce any ſuch ill diſpoſed perſons.

'Inſomuch as I find not any tract, no *veſtigium* of the like preſi-'dent for obove 3000 years, and the Fathers of the Church upon 'that place, where it is ſaid, *out of the mouth of two or three Wit-'neſſes ſhall every thing be juſtified*; they deſcant upon it, why two 'or three Witneſſes in matters of conſequence? Becauſe, ſay they,

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'ſo many ſhould not be ſubject to be tampered withal, being they 'might be of ſeveral tempers, ſeveral conditions, and ſo the truth 'might be had by ſome of them, if not by all.

'And for a long time I read of none, but of the deviliſh practice 'and leading piece of impiety ſet on foot by *Jeſabel*, for what cauſe, 'and how proſecuted, you all well know, and what ſhe was, how 'ſhe ſped, and what end ſhe made is recorded to poſterity. Yet '(my Lords) I pray you obſerve and note with me, how warily the 'Holy Ghoſt goeth about in the ſetting out of this Fact, and the 'paſſages therein in the 21*ſt*. verſe, as if the Spirit of God was un-'willing to diſplay and diſcover the heinouſneſs of this Monſter 'hatched by this vile Woman; as if he would not have it ſeen, he 'ſhadows it forth in a low ſtream, that there came in two Sons of '*Belial* and ſaid, *&c.* As if the Original of this odious practice was 1 Kings ca. 21. 'not rooted in humane nature, but took his birth from Hell, it came 'in with two Sons of *Belial* in the Devils name.

'Well, afterwards ſuch a Tutor could not want apt Scholars, 'and, as Saint *Paul* ſaith in another caſe, *when I come to ſpeak of it* '*after the manner of men*, I find it then practiſed, and that (with a 'witneſs) *it outfaced the God of truth*, though truth it ſelf muſt not 'be trodden under foot; but this engine fetched from Hell, muſt 'be planted to defeat the Counſels of God Almighty. They found 'out and hired falſe-witneſſes againſt Chriſt himſelf, who they 'were you know, Mark 14. 55. *The Chief Prieſts and the Elders,* '*and all the whole Councel ſought falſe witneſs againſt Jeſus to put him* '*to death*; and after Chriſt *Stephen* had the ſame meaſure, *Acts* 6.11. '*Then they ſuborned men, who ſaid we have heard him ſpeak blaſphemous* '*words againſt God and againſt* Moſes.

'Thus amongſt thoſe ſtiff-necked and hard-hearted *Jews*, the 'fault was in uſe when ſin and iniquity grew ripe, and, as the *Pro-*'*phet* ſaith, *Faith and truth could ſcarce be found amongſt mortal men*; 'but the ſubverſion and deſtruction of their City follows, and there 'comes in the Government of a Warlike Nation and People, the '*Romans*; amongſt whom I find ſome Laws made againſt falſe wit-'neſſes, and thoſe very ſevere ones.

'Beſides other Laws, in the Law of the twelve Tables there is a 'ſtrict Law confirmed againſt it; and theſe twelve Tables were not 'made by any mean advice or perſons, but by the perſons of a 'powerful Council and the *Decemviri*: That he that was found 'faulty in this notorious Crime, he was to be thrown down a ſteep 'high Rock, to have his Bones ſhivered all to pieces, *e Monte Tar-*'*peio*, or *e Saxo Tarpeio*; afterwards the Law-givers purſued this 'fault with baniſhment and confiſcation of Goods, *Confiſcatio bono-*'*rum fiat & puniatur uti pro Crimine falſi.*

'Within thoſe times was a heavy and moſt ſevere puniſhment, 'whereby their Poſterity alſo was branded with the fault of them 'that went before them.

'In the ninty fifth *Council* I find a courſe ſet down for the preven-'tion of this Crime, and a puniſhment ſet for the Offendors there-'in.

'And in later times *Bartolus* often meets with it, and goes very 'preciſely and exactly in the caſe, that if ſo be it be found in any 'man, ſo much as an overture of tampering with Witneſſes, it is Cen-

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'ſurable; *reus eſt*, he is guilty, though he effect not his purpoſe, if 'he menace, threaten, or deter a Witneſs. And ſo, my Lords, ſhall 'I do, though he but barely attempt to ſmother, deter, or hinder 'any Witneſs, when he is to give his Teſtimony; be it by words, 'looks or actions, promiſes or threats, it comes much to one in my 'opinion upon the matter.

'Now, my Lords, to come unto the Laws of the Church, if we 'peruſe the *Canon* and *Eccleſiaſtical Law*, there we ſhall often in 'every age, have ſomewhat or other ſtill eſtabliſhed againſt it.

'In the *Canon Law* the ſecond part of the *Decretals*, if any man 'ſhall be a ſuborner of Witneſſes, *Etiamſi inſtigatus aut compulſus a 'Domino*, if he bring a falſe teſtimony (though he be even enfor-'ced to it by his Superior Lord, Governor or his Maſter) deliver 'him over to Excommunication, *& ſic maneat uſque ad exitum vitæ*, 'and ſo he muſt ſtand and remain in that ſtate and caſe during term 'of life. A grievous thing, and a moſt heavy burthen, the ſen-'tence of Excommunication is to an Offender, though now in theſe 'looſer times it be ſlighted and little ſet by; yet in caſes of this na-'ture when the offence is ſo high and tranſcendent, and of conditi-'on tending to the ruine and condemnation of the ſoul, the party 'at that time, and for that preſent, even Dallying, Mocking and 'abuſing of God to his very face, to be left void of the Communi-'on of Saints, to be bereaved of the benefit of being a member of 'Chriſts Flock, and cut off from that holy body the Church, I 'think that no man is in a worſe and a more miſerable eſtate, and 'more to be pitied, if he be inſenſible of it himſelf.

'To come to the firſt Council of *Macedon*, the ſeventeenth *Ca-'non*, *Si ſit ille inter falſos juratores, reus eſto.* And what is he guil-'ty of? Of no ſmall matter. Ranked and ranged in the degree and 'place of a Murtherer *& cum homicidis.*

'Nay, he is worſe than a manſlayer, for he that kills a man de-'ſtroys but one, and that but the body neither, for he cannot any 'ways infringe the union of his ſoul that it had with his Maker. 'But he that goes about to ſuborn and procure falſe witneſſes; he at 'one time deſtroys two Souls, both his own, and the ſoul of him 'that he ſo in that kind intermedles withal; and unleſs he be re-'joyned again by the renewing of Faith and ſerious and hearty re-'pentance, he ſets both their ſouls and God at odds.

'Afterwards you find it in the Weſtern parts of *England*, and in '*France*, in the ſeventeenth Council of *Agatha* you have a tampe-'rer with Witneſſes adjudged to death (even in the time of '*Alexicus*, who was no better than a Barbarous *Goth*) this Crime 'was diſallowed, made horrid, and held ſeverely to be puniſhed.

'You may find it in St. *Auguſtin*, who lived about ſome 400 'years after *Chriſt*; and indeed he moſt excellently ſets it out in 'his 28*th Sermon, de Nativitate Domini*, either he had it out of that 'Council, or the Council out of him, being much what both at one 'time and in one age.

'Some parts of *Greece* I find did affect and patronize Lying, but '*Tully* wittily guirds them for it, ſaying, they were not wiſe to 'countenance folly; yet I find that *Ariſtotle* in his *Rethoricks* con-'cerning the Interrogatories to Witneſſes, gives admirable rules, 'and ſuch as (though ſhort) comprehends the moſt-what of the

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'moſt ſetled and the wittieſt, and the ſafeſt ways uſed now adays 'in that kind, *lib.* 2. *Rhet.* you may read the ways of preventi-'on herein by him ſet down.

'And to come into our own Country about the year 1224, in 'the Reign of King *H.* 3. and your Lordſhips know, that it was a 'troubleſome time; yet I read that *Stephen Langley*, my Predeceſſor, '(then Arch-Biſhop of *Canterbury*) called a Council to be held at '*Oxford*: the main buſineſs was for the reformation of two points; 'the one was concerning Marriage, the other concerning *Exheri-'dation*, *&c.* where I find a foul penance inflicted and ſet out 'for him, that ſhall either bear falſe witneſs by himſelf, or procure 'it in another.

'For he that is a tamperer this way, he is guilty of no ſmall 'Crime doing, doing (at the ſame time) wrong to three of the 'greateſt Perſons in the World, *viz.* 1. To God. 2. To the King. '3. To the Innocents.

'*Firſt*, He manifeſtly wrongs God by a notorious contempt, by 'a very ſlighting and vilifying his Omniſcience, Omnipreſence and 'Omnipotency.

'He robs God of that which is his very eſſence, for God is truth, '(and who dare thus out-face Gods truth!) and wittingly deviſeth 'and practiſeth to lay it aſide and keep it from the Light; I find 'him in very nature to be abhorred and held unfit for humane ſo-'ciety. *Ariſtotle* himſelf in that glimmering he had of Divine 'Learning, deciphers ſuch a one, and ſets him out by theſe very 'Characters: he muſt be one *qui pietatem non curat*, a man that 'matters not at all for Piety; he muſt either deny the Deity, or 'elſe think he can eſcape the reach of the Celeſtial Powers, ſuch a 'one *qui putat ſe latere Deo*, he is able to skulk on the one ſide, and 'abſent himſelf from the hand of God at his pleaſure.

'*Secondly*, In the next place, another great Perſon (unto whom 'he doth injury) is the King, whom he plainly cheateth to his 'Face, and wrongs in the very Seat of Juſtice, even forcing his 'Officers, the grave and learned Judges, will they nill they, to do 'Injuſtice: for if the Witneſſes be ſuborned and give in falſe evi-'dence the Jurors cannot come near the truth, and the Judges 'muſt needs Enact, Order, and Sentence what otherwiſe they nei-'ther would, nor ought to have done.

'Laſt of all, the third Perſon that is wronged *in conſpectu Dei*, 'is a perſon of no ſmall eſteem, the Innocent (one many times lit-'tle enough eſteemed, God knows, in the eye of the world, but 'gracious and great in the ſight of God,) and he is alſo moſt ſhame-'fully wronged and abuſed; nay, perhaps undone by the indirect 'practiſes of thoſe falſe Witneſſes. Some-times his Perſon is tra-'duced, his Fame and Credit either ſtained or elſe quite taken 'away, or ſo ſhaken that it's a ſhy matter to deal with him: ano-'ther while his Eſtate, his Birth-right is wreſted from him, or 'elſe withdrawn, and for a time with-held from him: one while 'his Goods, another while his Lands, a third time himſelf is at 'ſtake; ſo Life, Lands, Goods, and All are in danger: well though 'ſuch Witneſſes be againſt him, his plea is never a whit the worſe 'in *Foro Cœli*, his Inheritance is laid up amongſt the Saints, *Teſti-'monium ejus eſt in Cœlis*, *doubtleſs there is a reward for the Righteous*;

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An. 1637. ‘*verily there is a God that judgeth the Earth, for there is nothing hid* ‘*which ſhall not be revealed.*

‘And thus, my Lords, have I ſaid what I thought fit, though not ‘ſo much as the Crimes deſerve, for my time being ſcanted, I have ‘laid it out (though roughly) yet ſo as it may eaſily be ſeen of ‘what a vile nature this cankered and peſtilent Weed is, and from ‘whence it had its original, and how odious and deteſtable it hath ‘been to all ages, how dangerous the effects be that proceed from ‘it, and therefore how carefully it ought to be lookt unto, and ‘ſuppreſt in all Common-wealths.

‘I ſhall make my word good in my brevity concerning the laſt ‘thing I am to perform, and ſhall paſs over the Sentence very ‘ſpeedily; to make any repetitions were but *Actum agere* (as my ‘Lord of *London* ſaid) therefore I will be ſhort.

‘I find much tampering and ſtriving by my Lord Biſhops Agents ‘for to ſuppreſs and decline a truth.

‘I wonder that *Lake* ſhould be ſent to the Univerſity of *Cam-* ‘*bridge* preſently to take the Degree of Doctor, and that they ‘would let him paſs.

‘I cannot commend *Moſteon* (though otherwiſe a very civil and ‘deſerving man, and I think very true and truſty to His Maſter) ‘yet to be preſent when a Blank is put up, and an *Affidavit* to be ‘made to a Blank by his privity and in his preſence, this is not ‘honeſt; he might have done well to have diſallowed the proceed- ‘ings, or at leaſt not been preſent, and have countenanced the ſame. ‘And *Walter Walker*, though he be a Solliciter, and muſt and ought ‘to follow the Cauſes he undertakes, with as much skill, induſtry, ‘and advice as he may, yet he might have been aſhamed of this ‘*blank Affidavit*, and he ought indeed to have ſuppreſt it.

‘If *Walker* had been a good Servant it had gone better with the ‘Biſhop, than now it is like to do: and if *Walker* do eſcape ſeten- ‘cing it's more by hap than skill, more by luck than honeſty. I ‘find him to be a very arrant honeſt man in all the buſineſs, and ‘my Lord Biſhop is a very miſerable man, thus to defend *Pridgeons* ‘good name, with the loſs of his own.

‘*Catlin*, he muſt have a Living given him, and well he deſerved it, ‘but as yet he had not plaid his part to the full, and therefore ſtay ‘your hand (my Lord ſaith *Walker*) till the buſineſs be done. A ‘manifeſt plain proof that there was ſome uſe to be made of this ‘cunning and crafty Fellow, to countenance the buſineſs in hand. ‘And I can ſay no leſs, than that I find *Catlin* to be a very lewd ‘man, a very Incendiary, and truly to be parallel'd with that *Catlin* ‘of *Rome*, againſt whom ſo many learned and eloquent Orations ‘were writ, by *Cicero* that famous Orator.

‘For *Lunn*, let him go on in Gods Name, to be put off from the ‘place and offices that he hath; and for *Powel* I could go deeper ‘than any before me hath yet done, who proſecutes an unjuſt act ‘ſo long, ſo oft, and never repents of it.

‘For *Kelverts* affronting of my Lord Biſhop in that manner he ‘did, I muſt ſet that, and the Biſhops offering to be preſent at the ‘examination of the Witneſſes, both in one diſtance, and they may ‘very well the one of them quit the other; and I muſt commend ‘*Kelvert*, or any man elſe that ſhall go on in the Kings buſineſs,

‘and

13 *Caroli*

'and concerning ſo great a matter; for if he had gone on pining-'ly, faintly, and cowardly have put his head in a hole; if he had 'by my Lords preſence, and by the terms he uſed, gone ſheepiſhly 'on in his buſineſs, the matter might have failed. Some of your 'Lordſhips have condemned him for his bold carriage toward a 'Biſhop in his own Dioceſs, but I cannot, for my Lord and his 'paſſions were more to be condemned. A temper would better 'have befitted him, and indeed he ought not to have given any 'ſuch occaſion, and therefore it may be ſaid, *Etiamſi ego dignus 'ſum hac contumelia, indignus tamen qui fecerit*, I paſs that by as 'to be excuſed, by reaſon of the weightineſs of the matter.

'For the gaining of Papers from the Council Table, I find my 'Lord Biſhop had them long enough in his cuſtody, and they were 'returned unſealed; and I do find that he proceeds to counter-'proofs directly, according as he was informed by theſe Papers, 'which in my mind ſhews apparently that he both had them and 'peruſed them.

'For Sir *John Mounſon*, the King is wounded through his ſides, 'I have known him a long time, and I never knew nor heard any 'thing of him but good, and therefore do hold one thouſand Marks 'little enough for reparation of his Credit, who did nothing but 'that which was his duty, and belonged to his place.

'Now for my Lord Biſhop of *Lincoln*, truly I am heartily ſorry 'to do that which I muſt do, both by reaſon he is of my own 'Coat, and alſo by reaſon of the place he hath in former time 'ſuſtained in this Court amongſt your Lordſhips, and in this Com-'mon-wealth, but I muſt not forbear to do that which my Conſci-'ence leads me unto, and leſs I muſt not do than for to diſcharge 'that as I ought to do.

'Wherefore I ſhall agree with my Lord *Cottington* and the reſt 'that have gone before me in the fine of 10000 *l.* to His Majeſty; 'and likewiſe for his impriſonment in the *Tower* during the Kings 'pleaſure, as alſo to be ſuſpended from the exerciſing of his Ec-'cleſiaſtical Function, *tam a Beneficiis, quam Officiis*, and to be re-'ferred over to be proceeded againſt in the High Commiſſion 'Court, as the merit of his offence ſhall deſerve.

The Lord Keeper *his Speech.*

'THis Cauſe, my Lords, is a Cauſe of great conſequence, and 'it is a very foul matter, though I muſt needs ſay the de-'fences that hath been made in it, hath been very fair by Mr. *Re-'corder*, and the Councel on my Lord of *Lincoln*'s behalf.

'*Moſtein* I muſt acquit, for *Catlin* I came reſolved to Cenſure him 'for Perjury; but ſeing the Court lets him paſs, I ſhall not ſen-'tence him, though he is a very notorious Actor, and had a hand 'in that *Blank Affidavit*, and help'd *Smith*, and countenanced and 'directed him what to ſwear, and what to let alone.

'All my Lords actions (for which he is much to be blamed) are 'ſubſequent to that *Affidavit*; I muſt do my duty, and diſcharge 'my Conſcience, and ſhew my love to the common good, (what

'ever

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'ever my private wiſhes are) that things had not faln out thus with 'my Lord as they do.

'I ſhall divide all into two parts, ſome things I hold faulty, and 'ſome I ſhall not Cenſure; I ſhall not Cenſure Mr. *Kilvert* for his 'unmannerlineſs, though the affront was great to a Man of his 'Place in the Country, where he was Biſhop of the Dioceſs, and 'in the chief Seat of his Juriſdiction. Mr. *Kilvert* might have 'forborn him ſomewhat in that reſpect; but the cauſe being of that 'high nature, and concerning them it did, he had ſomewhat the 'more reaſon to be the more confident and bolder in the proſecution 'thereof than ordinary, and for that concerning Sir *William Beecher* 'I find no proof of it.

'I find that *Lunn*, *Tubb*, and *Wetherel*, were tampered with-'al, but I cannot find my Lord Biſhop faulty with them: For '*George Walker*, I find him Cenſurable; and ſo is my Lord alſo 'himſelf in other matters, as will appear when I ſhall come at 'them.

'I find by the Proof of two Witneſſes, that my Lord confeſs'd 'himſelf, that it coſt him 1000 *l.* or 1200 *l.* to bolſter up *Prigeons* 'Reputation, and to do this he falls into error concerning the Order 'made by Sir *John Mounſon*; that muſt be ſuppreſt, and I know 'not how ſo much Money ſhould be expended, but upon ſuch cour-'ſes as were uſed with *Smith* and *Catlin*.

'*Catlin* told *Smith* he ſhould be made by it; ſo that the Order 'muſt be to undermine the Witneſſes, and get them to vary from 'what they had formerly ſworn before the Juſtices at the publick 'Seſſions. I know that Men in Caſes of this nature do not bluntly 'promiſe this or that; but I find *Walker* goes about by Queſtions at 'firſt a-far off, and then comes cloſe to inſtruct *Smith* what to 'ſwear; and Rewards are not behind, neither do I conceive in ſuch 'Caſes, that there are ever two Witneſſes to be expected, but as 'my Lord Chief-Juſtice of the *Common-Pleas* explained it, *ſingu-'laris Teſtis*, ſhall induce me to believe a Truth in ſome Caſes, 'and it muſt of neceſſity, when Circumſtances concur with the 'ſame.

'So that whatſoever Mr. Recorder ſaid, the return of that Order 'made by the Juſtices was *coram non Judice*, it matters not with me. 'The Witneſſes knew nothing of the queſtionableneſs of the Pro-'ceedings, but went on the way their Conſciences at that time led 'them: Now for my Lord Biſhop of *Lincoln* to ſeek to diſhearten 'them, to terrifie them by Threats, and ſeek otherwiſe after by 'Rewards and Promiſes to ſubvert, (or at leaſt) to divert the Cur-'rent of Juſtice, I know not how to excuſe them, but that he is 'much too blame to give ſuch ill Names and diſgraceful Titles to an 'Order made in Court, as to call it a *Pocket Order*, thereby bringing 'an *Odium* and defamation upon the Juſtices, who proceeded as 'they ought, and in open Court, as appears by Doctor *Farmary*, 'and by *Aſcot*, who had both of them a hand in it, (as I take it) 'as well as Sir *John Mounſon*, and therefore their Credits muſt be re-'paired alſo.

'For *Alice Smith*, ſhe was tampered withal by *Owen* and *Powel* to 'ſalve up *Prigeons* Credit; and after that ſhe had taken one Oath 'before the Juſtices, then (for the preſent the Commiſſion to be

'ſat

'ſat at *Lincoln*) ſhe is taken and withdrawn out of the way, and 'hath Rewards given her, (as is apparent) either to deny, or alter, 'and vary from what ſhe had ſworn before. She had 5 *l.* offered her 'to perſwade *Elizabeth Hodgſon* to lay the Child to another Father; 'and then afterwards it was given her to perſwade her to lay it to 'the right Father; and yet here is no falſe Oath, but may be true, as 'I can inſtance that a Depoſition may be made by a Party that may 'ſwear two things that are contrary, and yet the Depoſitions of 'both of them may be true. 13 *Caroli.*

'And yet an Attainder hath been upon the like; now upon an 'Attainder the puniſhment is great, he loſeth his Freehold, and 'Goods, all are forfeited to the King, his Houſes are to be razed 'down, Meadows plowed up, and Woods to be felled, and he him-'ſelf to be impriſoned or baniſhed, his Wife and Children to be 'turned out of all.

'So in another Caſe, one hath a hold from an Abbot, and a Rent 'is due, as *Foſter* in Fee he holds *jure Rectoriæ*, and it's ſworn he 'had Common, time out of mind: And if the words *jure Rectoriæ* 'be not expreſt, all may be true. *Fitz-Herb. Natura brevium lib.* 10.

'In this Caſe of *Alice Smith* it may be queſtioned what Money 'was promiſed, 5 *l.* to what end? to ſwear that ſhe was moved to 'get the Child laid to another: Well, afterwards ſhe muſt ſwear 'that it was to lay the Child to the right Father, Mr. *Valentine* and 'Mr. *Powel* ſhewed her the Interrogatories, ſhe muſt ſwear againſt 'the firſt Order, and Mr. *Valentine* ſaid his Heart trembled at the 'Queſtions.

'There is much cunning in this way of tampering with a Wit-'neſs, for my Lord Biſhop asks them leading Queſtions, by which 'they have Inſtructions what, and how far to ſwear.

And *Prigeon* tells *Richardſon*, that if he could get the Order al-'tered, he might do the Biſhop ſpecial Service.

'Now it may be, ſaid he, may not a Man meddle, nor queſtion 'with a Witneſs? yes, but with certain limitations, for elſe, if the 'Witneſſes be made and corrupted, the Jurors and Judges both of 'them may be abuſed; and if that Witneſſes may be led and in-'ſtructed by Queſtions, or the like, it comes all to one as Suborna-'tion,

'A Solliciter may warn Witneſſes to come in, he may incite them, 'and enforce them, and one as well as the other: but for a ſtranger to 'labour a Juror or a Witneſs, is not ſo allowable. But a Solliciter muſt 'not inſtruct a Witneſs, nor threaten him, nor carry Letters to him, to 'induce him this way, or that; yet he may diſcourſe with him, 'and ask him what he can ſay to this or that Point, and ſo he may 'know whether he be fit to be uſed in the Cauſe or no: by which 'means this Court is freed from the labour of asking many idle 'queſtions of the Witneſſes to no end, if they can ſay nothing to 'them, and ſo ſpend good time to no end nor purpoſe; yet he may 'not perſwade him, or threaten him to ſay more or leſs, than he of 'himſelf was inclined unto, and was by his Conſcience before-hand 'bound to deliver as truth.

'The term in Law is called *Embracery* of a Jury, *Amplexus*, to 'curry favour, when one hugs them, and houſes them in their Arms 'to procure reſpect unduly to their own ends; you have it men-

An. 1637. ‘tioned 13 *H.* 4. *&* 16. when there is a leading of a Jury 22 *H.* 6. ‘whereupon it hath been ordered, that in Caſes which have any ‘relation to great Perſons, who uſually are on the Bench, they ‘are upon Tryals to abſent themſelves, and not to be in preſence of ‘the Bar.

‘And as my Lord Chief-Juſtice of the Common-Pleas well in- ‘ſiſted upon in this Caſe, the countenance of a great Man, and one ‘that is powerful in the Country to do a poor Witneſs harm in ano- ‘ther way upon any other occaſion, when it ſhall come to his turn, ‘and occaſion be offered for him to do it; the very looks I ſay of ‘ſuch a Man is able to put the Witneſs off from what he was reſol- ‘ved to ſpeak, and daſh him out of countenance, that he will ei- ‘ther, for fear that ſuch a Man ſhall take diſlike at him, or for ‘hopes of much favour with him, and to gain his good will, ſpeak ‘ſparingly of the matter in hand, at leaſt if he do not altogether ‘decline another way in his words to that which he in his Conſci- ‘ence knows to be the very truth.

‘So that in the Point it is plain, that when a Man ſhall alter the ‘Teſtimony of a Witneſs, and cauſe him to decline from the truth, ‘whether it be by threats, promiſes, or rewards, it hath ever been ‘much diſallowed, and he that attempts the ſame is cenſurable, ‘though perhaps he effects it not.

‘Now, my Lord, to come to the Cenſure, for I have been ſome- ‘what the more bold upon your patience, than I would otherwiſe, ‘becauſe I would have it appear how far one may, and wherein one ‘may not tamper, or meddle with Witneſſes, which thing is the ‘main matter in this Caſe we have had ſo long in hand; for had ‘not my Lord Biſhop moved this way, I ſhould not have found mat- ‘ter in this Bill to have ſentenced him at all.

‘But for to juſtifie *Prigeons* Credit, and to make him ſtand up- ‘right, and to clear the reputation of him, and others, ſo much ‘Money is ſpent, and theſe unjuſt and undue undertakings have ‘been made by my Lord of *Lincolns* Servants, and his Agents, to ‘tamper, ſeduce, and withdraw the Witneſſes aſide againſt the ‘Laws of God and Man, and to the very overthrow of my Lord ‘himſelf.

‘For *Cadwallader Powel* it's plain all the way what he did, and in ‘what undue courſes he ſought to ſuppreſs the truth; I ſhall agree ‘with your Lordſhips for him in his Fine, and do Cenſure him at ‘300 *l.* Fine; and for *Owen*, I ſhall alſo agree with you in his Fine of ‘300 *l.* alſo for *Lunn*, I could go deeper, and ſet him a greater pu- ‘niſhment than your Lordſhips have, but do agree with you in his ‘Fine of 1000 Marks, and to be diſabled from being in any Office or ‘Practice hereafter in his Profeſſion, or in any other Court.

‘Now for my Lord Biſhop of *Lincoln*, truly I am heartily ſorry ‘for him; but *ex ſe cadit*, he is the cauſe of his own overthrow, ‘*Et ruit Roma viribus ſuis*, no Man hurts him but himſelf. I think ‘of him as a great Perſon, and more to be pitied for that he is a ‘Church-man, and in ſo eminent a Rank as a Biſhop, and none of ‘the meaneſt of that Dignity: and as my Lord of *Canterbury* ſpoke, ‘that it was the more grief to him to paſs Sentence in ſo deep a man- ‘ner upon him, by reaſon he was of the ſame Coat; ſo, my Lords, ‘I cannot but be ſenſible of his precedency to me in that place I

‘now

13 *Caroli.*

'now undergo by the favour, and at the Pleaſure of the Kings Ma-
'jeſty, my honoured Maſter.

'For a Man of his Wiſdom, of that Experience, and having
'ſeen the various Changes of Times, and of ſeveral Mens For-
'tunes, lived in that eminency, and ſo well-literated, to ſeek his
'own overthrow, to ſupport and maintain the reputation of ano-
'ther, is a thing not to be ſo much as dreamed on, or could be once
'thought upon, that ſuch weakneſs ſhould ever faſten and take
'place in a Perſon ſo well-guarded and accompanied with Vertues
'and commendable Qualities, as my Lord Biſhop was ever eſteem-
'ed to have.

'And for a Church-man, whoſe Profeſſion is to ſupport Mens
'Conſciences in the right way, and for to reduce them into it when
'they ſhall chance to err, for him to be a ſeducer of the Conſcience,
'is a fouler and worſe ſtain in him than in another.

'But when to that Sacred Calling (the Profeſſors whereof are
'ever to be had in reſpect) ſhall be added another Charge, and
'care by the favour of the King, to become a Judge, and a Judge
'of that great Court of *Chancery*, where Equity and Conſcience
'give the very denomination of the Court; to be advanced to this
'eminency is a thing of great conſequence, and to be admitted to
'this Place is a ſign of great Truſt repoſed and placed in that Ser-
'vant by his Maſter. Now I cannot, my Lords, but be heartily
'ſorry, and very much pity, that a Church-man, and Biſhop, and
'one that hath been a Prelate, and eminently Dignified for the
'ſpace of this 16 or 17 years at leaſt together, ſhould ſo groſly be
'overſeen in the countenancing and cheriſhing ſuch foul Crimes:
'Nay, a Man that had born the great Seal of *England* before two
'ſuch great Kings, and been highly graced with ſo many large Te-
'ſtimonies, and remarkable Favours from them both, to uncaſe
'himſelf of all thoſe, and that at once, and for ſo ſmall a matter,
'ſo little really in it ſelf concerning him, I cannot but wonder how
'he ſhould fall into ſuch an error, and more pity his misfortunes
'to ſee him ſo much his own Enemy.

'But as it hath been obſerved by you all, he hath overthrown
'himſelf: And therefore I muſt do my duty, and proceed to his
'Cenſure alſo, as I have in the reſt; *vincat veritas & fiat ju-*
'*ſtitia.*

'I ſhall agree with my Lord *Cottington* for his Fine to the King
'in 10000 *l.* and ſo I do alſo with my Lord *Cottington* for his Impri-
'ſonment in the *Tower* during His Majeſties Pleaſure.

'And withal to be ſuſpended from all his Eccleſiaſtical Dignities,
'Offices, and Functions, and in all with my Lord *Cottington*, *ab*
'*Officiis & Beneficiis*, and to be referred to the High Commiſſion
'for the reſt.

This Biſhop of *Lincoln*, (once a great Miniſter of State) wreſtled through theſe difficulties and cloſe Impriſonments; was at laſt ſet at liberty out of the *Tower*, and called by the Kings Writ to ſit in the Houſe of Peers, and after that was advanced by the King, and reſtored to all his Eccleſiaſtical Dignities and Functions.

An. 1637. *July* 1637.

THe Licenſing of all new Books was at this time in the power of the Arch-biſhop of *Canterbury* and his Subſtitutes and Dependents, who uſed that ſtrictneſs, that nothing could paſs the *Preſs* without his or their *Approbation*, but the *Authors*, *Printers*, and *Stationers* muſt run a hazard of ruine. But leſt the Printers (being thus reſtrained) ſhould fall to the re-printing of old Books of Divinity formerly Licenſed, this Decree was made in the *Star-Chamber*, That no perſon ſhall preſume to print any Book or Pamphlet whatſoever, unleſs the ſame be firſt licenſed, with all the Titles, Epiſtles, and Prefaces therewith imprinted, by the Lord Arch-biſhop of *Canterbury*, or the Biſhop of *London* for the time being, or by their appointment; and within the limits of either Univerſity by the Chancellor or Vice-Chancellor thereof; upon pain that every Printer ſo offending ſhall for ever thereafter be diſabled to exerciſe the Art of Printing, and ſhall ſuffer ſuch farther puniſhment, as by this Court, or the high Commiſſion, ſhall be thought fitting, that before any Books imported from Forreign Parts ſhall be expoſed to ſale, a true Catalogue thereof ſhall be preſented to the Arch-biſhop of *Canterbury*, or the Biſhop of *London*. And that no *Officers of the Cuſtom* ſhall deliver any Forreign Books out of their Hands and Cuſtody, before thoſe Biſhops ſhall have appointed one of their Chaplains, or ſome other Learned Man, with the Maſter and Wardens of the Company of Stationers, or one of them, to be preſent at the opening of the Packs and Fardels, and to view the ſame. And thoſe that diſobey this Injunction, are to be Cenſured in this, or the High Commiſſion-Court, as the ſeveral Cauſes ſhall require. And if in this Search there happen to be found any *Schiſmatical* or offenſive Books, they ſhall be brought to the aforeſaid *Biſhops*, or the *High Commiſſion-Office*, that the Offenders may be puniſhed. That no Perſon whatſoever ſhall imprint in the Parts beyond the Seas, or import from thence, any *Engliſh* Books, or whereof the greater part is *Engliſh*, whether formerly Printed or not. And that no Books whatſoever ſhall be re-printed, though formerly Licenſed, without a new Licenſe firſt obtained, upon pain of like Cenſure and Puniſhment. And that if any Perſon whatſoever, that is not an allowed Printer, ſhall preſume to ſet up a Preſs for Printing, or work at any ſuch Preſs, or Set and Compoſe Letters for the ſame, he ſhall be ſet in the *Pillory*, and *Whipt* through the City of *London*.

After the making of this Decree Mr. *Fox* his Acts and Monuments, (called the Book of Martyrs) Biſhop *Jewels* Works, and ſome parts of Dr. *Willets*, with others, formerly publiſhed by Authority, were denyed new Licenſes; as alſo the *Practice of Piety*, which had been re-printed 36 times.

Auguſt 18. Complaint that the Biſhops in *England* kept Courts in their own Names, without a Patent from the King.

AT this time the Eccleſiaſtical Courts, exerciſing their Power ſeverely againſt the *Puritans*, fell under the weight of a general envy and diſlike, and were ſpoken againſt by many, as an incroachment upon the Kings Prerogative contrary to Law, becauſe they were held in the Biſhops Names, and without a Patent under the Great Seal of *England*. And in regard of divers late Pamphlets pub-

publiſhed to that purpoſe, the King was pleaſed by Proclamation to declare the Right, and vindicate the Proceedings of the Eccleſiaſtical Courts and Officers. That the Judges being required to give their Opinions, had certified, that Proceſs may iſſue out of Eccleſiaſtical Courts in the Name of the Biſhops. That a Patent under the Great Seal is not neceſſary for the keeping of Eccleſiaſtical Courts, the enabling of Citations, Examinations, Suſpenſions, and other Cenſures of the Church. That it is not neceſſary that Proceſſes Eccleſiaſtical, Inſtitutions, or Inductions to Benefices, or correction of Eccleſiaſtical Offences in thoſe Courts, be in the Kings Name, or under his Seal, or that the Seals of their Office have the Kings Arms. And that the Statute of the firſt of *Edward* the Sixth, that enacted the contrary, is not now in force. That Biſhops, Arch-deacons, and other Eccleſiaſtical Officers, may keep their Viſitations without Commiſſion under the Great Seal of *England*.

13 Caroli.

The King, by Proclamation, vindicates the Right of the Biſhops in ſo doing.

The Judges Opinions therein.

IN the Year 1632. the Lord *Weſton*, being then High Treaſurer of *England*, ſent for the Maſter and Wardens of the Company of *Vintners*, and demanded of them, in the vent and conſumption of Wines, one Peny a Quart, which is 4 *l.* *per* Tunn, which they utterly refuſed, alledging it would be the utter undoing of the retailing *Vintners*.

The Company of Vintners Caſe as to the payment of 3000 *l.* *per Annum* into the *Exchequer*, for Licenſe to have liberty to dreſs and ſell Victuals in Taverns, and Wines above the Rates propoſed.

Whereupon a Decree was made in the *Star-Chamber*, That the Retailers of Wines ought not to ſell or dreſs Victuals in their Houſes, which (time out of mind) they were accuſtomed to do; and this was done without any Information or Bill, or any called to defend or juſtifie their trade or uſage of it.

In *Anno* 1634. His Majeſty queſtioned the *Vintners*, and Retailers of Wine, for the breach of the ſaid Decree; but to evade their Cenſure they yielded to lend His Majeſty 6000 Pounds; whereupon His Majeſty did, by His Order, give way to the Retailers of Wines to dreſs and ſell Victuals till *December* next following; at which time his Majeſty promiſed to ſettle it ſo as he thought fit for him to Sign, that was to have the *Vintners* relying upon that Temporary Licenſe, that ſo His Majeſty, by His Declaration, might continue or diſcontinue their power of dreſſing Meat as he ſhould find convenient.

But in *Anno* 1635. the Retailers of Wines were again queſtioned for breach of the former Decree, and the Lord *Cottington* then propounded to them to yield to pay ſomewhat on their vent of Wines to His Majeſty, which the Retailing *Vintners* utterly refuſed to do.

Again, in *Anno* 1636 many Retailers of Wines were by information in Maſter Attorney's Name queſtioned in *Star-Chamber* for breach of the ſaid Decree, and ſo far proceeded againſt, as that they were ſerved with Proceſs of that Court to hear Judgment.

But while things were thus depending *Richard Kilvert* repaired to Alderman *Abel*, (the Maſter of the Company, and a meer ſtranger to Mr. *Kilvert*) and told him, that His Majeſty commanded him to proſecute the *Vintners* in the *Star-Chamber* for ſelling above the price, and breach of the Decree for dreſſing of Meat.

In

An. 1637.

In *October Anno* 1637. at *Vintners-Hall London*, *William Abel* Alderman being then Maſter of that Company, imparted to the Company, That Mr. *Richard Kilvert* had been lately with him, and acquainted him with the former Paſſages.

At this Court the Company of *Vintners* taking their Buſineſs into their ſerious Conſiderations, and weighing how they might hazard the utter undoing of ſuch as had tranſgreſſed the Decree, if they ſhould be brought to a Sentence in *Star-Chamber*; they ſubmitted to the payment of 40 *s. per Tunn*, 4 *l.* being demanded; and ſo they, (the Company of *Vintners*) together with the *French* and *Spaniſh* Merchants, contracted by Indenture *Quadrupartite* with His Majeſty, to pay Him 40 *s. per Tunn* on all ſuch Wines as they bought and vented, foreſeeing what great hindrance it would be to them, if ſtrangers ſhould come in and ſearch their Cellars, and know the Particulars of what they had bought and ſold; the Company therefore, to prevent many Inconveniences, deſired rather to Farm the Duty from His Majeſty; and His Majeſty declaring, That he would not contract with the generality of the Company for the ſame, but with ſome particular Members, the Company did deſire Alderman *Abel*, and *Edward Kinnaſton*, *Robert Shaw*, *Ralph Moor*, *George Hubbart*, and *Michael Gardiner*, &c. Free-men of their Company, to perform the Contract with His Majeſty for the ſame Duty, who took it to Farm at 3000 *l. per Ann.* for eight years.

November 22. 1637. Concerning the Tradeſmen and Artificers within three Miles of the City of *London*, not yet admitted into the new Corporation.

WHereas, upon the earneſt and frequent Complaints of the Inhabitants of the Places, as well within the City of London, exempt from the Freedom thereof, as without the ſaid City, and within three Miles of the ſame, for the great grievance by them ſuſtained, through the Intruſion of Aliens and Forreigners into theſe Places; the King, by His Letters Patents under the Great Seal, Dated the ſecond of June, in the twelfth Year of His Majeſties Reign, did Incorporate ſuch Tradeſmen and Artificers Inhabiting the ſame Places, as had ſerved Apprentiſhips for the ſpace of ſeven Years into a Body Corporate and Politick; and did erect a ſetled Government for the more orderly diſpoſing of Tradeſmen there for time to come, prohibiting all Perſons, after the Feaſt of All-Saints then next enſuing, to uſe, or exerciſe any Trade, Myſtery, &c. unleſs he or they be admitted into the Freedom of the ſaid Corporation: According to which the King did reſolve, in all reſpects, to have proceeded againſt thoſe Offenders, intending to have excluded them from the Benefit of the ſaid Freedom, and from the Exerciſe of Trade within the Places aforeſaid.

But foraſmuch as the King is given to underſtand, that partly by reaſon of the Infection, and out of a miſunderſtanding of the Kings Intention, People did, for a time, put off their Admiſſion into the ſaid Freedom; nevertheleſs, when the time limited was expired, Multitudes of People reſorted to be Admitted; but coming ſo thick, the Governor, Wardens, and Aſſiſtants of the ſaid Corporation, for fear of Admitting ſuch as were incapable thereof, were enforced to deſiſt; therefore the King doth now declare His Pleaſure, That the Governor, Wardens, and Aſſiſtants ſhall, and may proceed

proceed without delay to admit into the ſaid Freedom all ſorts of Tradeſmen and Artificers, as well Brewers, Weavers, Bickmakers, as others, &c.

December 20. 1637. A Proclamation reſtraining the withdrawing his Majeſties Subjects from the Church of *England*, and giving ſcandal in reſorting to Maſſes.

THe Kings Majeſty finding of late, that ſome of His Naturall-born Subjects have abuſed His Majeſties Princely Goodneſs, through the eaſe which they enjoy under His Gracious and Mild Government, by withdrawing ſundry of His Subjects to the Roman Superſtition, and to forſake the Church of England; and likewiſe by reſorting to Maſſes and Service, Celebrated according to the Rites of the Church of Rome, expreſly contrary to the Law of this Realm; for prevention whereof, for the time to come, and for preſervation of Religion, as it is eſtabliſhed in the Church of England, which His Majeſty is reſolved conſtantly to maintain; the King therefore hath thought fit to ſet forth this Declaration of His Royal Will and Pleaſure; and doth expreſly command all Perſons, Clerks and Laicks, that they from henceforth forbear to attempt, to withdraw any the Kings Subjects from the Religion that is now profeſſed. And the King doth Declare, That if any of the Roman Party ſhall, from henceforth, give ſcandal, by Celebrating or Hearing of any Maſs or Maſſes, that then His Majeſty will cauſe to be put in execution againſt ſuch Contumacious Perſons, thoſe Penalties, which by the Laws are inflicted.

December 28. Concerning Writs iſſued out for payment of Ship-money.

THe Charge of Sir *William Ruſſel* Knight and Baronet, Treaſurer of His Majeſties Navy, touching the Monies by him received of the ſeveral Sheriffs here under-named, and by them Levied by vertue of His Majeſties Writs Iſſued out of the High Court of *Chancery* in the 13*th* Year of His Majeſties Reign; for and towards the ſetting forth, and furniſhing of divers Ships for the defence of this Realm, and paid over by them the ſaid Sheriffs unto the ſaid Sir *William Ruſſel*, by vertue of a ſpecial Commiſſion under the Great Seal, Dated the 28*th* of *December* in the ſaid thirteenth Year of His Majeſties Reign, *Annoq; Dom.* 1637. and by Order from the Board to be expended and diſburſed in and about the ſaid Service.

A Commiſſion to Sir *William Ruſſel* to receive Ship-money upon the Writs iſſued out *Anno* 1637. to be diſburſed.

Imprimis, The ſaid Sir *William Ruſſel* is charged with the Sum of Four Thouſand Pounds by him received of the Sheriff of the County of *Berks*, for and towards the ſetting forth and furniſhing of one Ship of 400 Tunns for Service aforeſaid. } 4000 *l.*

Item, With the Sum of Four Thouſand Five Hundred Pounds received of the Sheriff of *Buckingham* towards the ſetting forth of one Ship of 450 Tunns. } 4500 *l.*

Item, With the Sum of Three Thouſand Pounds received of the Sheriff of *Bedford*, towards the ſetting forth one Ship of 300 Tunns. } 3000 *l.*

Item,

An. 1637.

Item, With the Sum of Eight Hundred Pounds received of the Major and Sheriffs of *Briſtol*, towards the ſetting forth of one Ship of Fourſcore Tunns. } 800 *l.*

Item, With the Sum of Five Thouſand and Five Hundred Pounds received of the Sheriff of *Cornwall*, towards the ſetting forth of one Ship of 550 Tunns. } 5500 *l.*

Item, With the Sum of Three Thouſand Five Hundred Pounds received of the Sheriff of *Cambridge*, towards the ſetting forth of one Ship of 350 Tunns. } 3500 *l.*

Item, With the Sum of one Thouſand and Four Hundred Pounds received of the Sheriffs of *Cumberland* and *Weſtmorland* towards the ſetting forth of one Ship of 100 Tunns. } 1400 *l.*

Item, With the Sum of Three Thouſand Pounds received of the Sheriff of *Cheſter*, towards the ſetting forth of one Ship of Three Hundred Tunns. } 3000 *l.*

Item, With the Sum of Nine Thouſand Pounds received of the Sheriff of *Devon*, towards the ſetting forth of one Ship of Nine Hundred Tunns. } 9000 *l.*

Item, With the Sum of Three Thouſand Five Hundred Pounds received of the Sheriff of *Darby*, towards the ſetting forth of one Ship of 550 Tunns. } 3500 *l.*

Item, With the Sum of Five Thouſand Pounds received of the Sheriff of *Dorſet*, towards the ſetting forth of one Ship of Four Hundred Tunns. } 5000 *l.*

Item, With the Sum of Two Thouſand Pounds received of the Sheriff of *Dureſme*, towards the ſetting forth one Ship of Two Hundred Tunns. } 2000 *l.*

Item, With the Sum of Eight Thouſand Pounds received of the Sheriff of *Eſſex*, towards the ſetting forth of one Ship of Eight Hundred Tunns. } 8000 *l.*

Item, With the Sum of Five Thouſand Five Hundred Pounds received of the Sheriff of *Glouceſter*, towards the ſetting forth of one Ship of Five Hundred and Fifty Tunns. } 5500 *l.*

Item, With the Sum of Six Thouſand Pounds received of the Sheriff of the County of *Southampton*, towards the ſetting forth of one Ship of Six Hundred Tunns. } 6000 *l.*

Item, With the Sum of Three Thouſand Five Hundred Pounds received of the Sheriff of *Hereford*, towards the ſetting forth one Ship of Three Hundred and Fifty Tunns. } 3500 *l.*

Item,

13 *Caroli*

Item, With the Sum of Four Thouſand Pounds received of the Sheriffs of *Hartford*, towards the ſetting forth of one Ship of Four Hundred Tunns. } 4000 *l.*

Item, With the Sum of Two Thouſand Pounds received of the Sheriff of *Huntington*, towards the ſetting forth of one Ship of Two Hundred Tunns. } 2000 *l.*

Item, With the Sum of Eight Thouſand Pounds received of the Sheriff of *Kent*, and Cinque-Ports in *Kent*, towards the ſetting forth of one Ship of 800 Tunns. } 8000 *l.*

Item, With the Sum of Four Thouſand Pounds received of the Sheriffs of *Lancaſter*, towards the ſetting forth of one Ship of Four Hundred Tunns. } 4000 *l.*

Item, With the Sum of Four Thouſand Five Hundred Pounds received of the Sheriff of *Leiceſter*, towards the ſetting forth of one Ship of 450 Tunns. } 4500 *l.*

Item, With the Sum of Eight Thouſand Pounds received of the Sheriff of *Lincoln*, towards the ſetting forth of one Ship of Eight Hundred Tunns. } 8000 *l.*

Item, With the Sum of Five Thouſand Pounds received of the Sheriff of *Middleſex*, towards the ſetting forth of one Ship of Five Hundred Tunns. } 5000 *l.*

Item, With the Sum of Fifteen Hundred Pounds received of the Sheriff of *Monmouth*, towards the ſetting forth of one Ship of One Hundred and Fifty Tunns. } 1500 *l.*

Item, With the Sum of Six Thouſand Pounds received of the Sheriff of *Northampton*, towards the ſetting forth of one Ship of Six Hundred Tunns. } 6000 *l.*

Item, With the Sum of Three Thouſand and Five Hundred Pounds received of the Sheriff of *Nottingham*, towards the ſetting forth of one Ship of 350 Tunns. } 3500 *l.*

Item, With the Sum of Two Thouſand and One Hundred Pounds received of the Sheriff of *Northumberland*, towards the ſetting forth of one Ship of 210 Tunns. } 2100 *l.*

Item, With the Sum of Seven Thouſand and Eight Hundred Pounds received of the Sheriff of *Northfolke*, towards the ſetting forth of one Ship of 780 Tunns. } 7800 *l.*

Item, With the Sum of Three Thouſand and Five Hundred Pounds received of the Sheriff of *Oxford*, towards the ſetting forth of one Ship of 350 Tunns. } 3500 *l.*

An. 1637.

Item, With the Sum of Eight Hundred Pounds received of the Sheriff of *Rutland*, towards the ſetting forth of one Ship of 80 Tunns. } 800 *l.*

Item, With the Sum of Eight Thouſand Pounds received of the Sheriff of *Somerſet*, towards the ſetting forth of one Ship of 800 Tunns. } 8000 *l.*

Item, With the Sum of Three Thouſand and Five Hundred Pounds received of the Sheriff of *Surry*, towards the ſetting forth of one Ship of 350 Tunns. } 3500 *l.*

Item, VVith the Sum of Five Thouſand Pounds received of the Sheriff of *Suſſex*, towards the ſetting forth of one Ship of Five Hundred Tunns. } 5000 *l.*

Item, VVith the Sum of Eight Thouſand Pounds received of the Sheriff of *Suffolk*, towards the ſetting forth of one Ship of Eight Hundred Tunns. } 8000 *l.*

Item, VVith the Sum of Three Thouſand Pounds received of the Sheriff of *Stafford*, towards the ſetting forth of one Ship of Three Hundred Tunns. } 3000 *l.*

Item, With the Sum of Four Thouſand and Five Hundred Pounds received of the Sheriff of *Salop*, towards the ſetting forth of one Ship of 450 Tunns. } 4500 *l.*

Item, VVith the Sum of Four Thouſand Pounds received of the Sheriff of *Warwick*, towards the ſetting forth of one Ship of Four Hundred Tunns. } 4000 *l.*

Item, VVith the Sum of Three Thouſand and Five Hundred Pounds received of the Sheriff of *Worceſter*, towards the ſetting forth of one Ship of 350 Tunns. } 3500 *l.*

Item, VVith the Sum of Seven Thouſand Pounds received of the Sheriff of *Wilts*, towards the ſetting forth of Ship of Seven Hundred Tunns. } 7000 *l.*

Item, VVith the Sum of Twelve Thouſand Pounds received of the Sheriff of *York*, towards the ſetting forth of Two Ship of Six Hundred Tunns a-piece. } 12000 *l.*

Item, VVith the Sum of 448 *l.* received of the Sheriff of *Angleſey*, as part of the Sum of Four Thouſand Pounds charged upon the Counties of *North-Wales*, towards the ſetting forth of one Ship of Four Hundred Tunns. } 448 *l.*

Item, VVith the Sum of 575 *l.* received of the Sheriff of *Carnarvon*, as part of the Sum of Four Thouſand Pounds charged upon the Counties in *North-Wales*, towards the ſetting forth of one Ship of Four Hundred Tunns. } 575 *l.*

Item,

Item, With the Sum of 1122 *l.* received of the Sheriff of *Denbeigh*, as part of the Sum of Four Thousand Pounds charged upon the Counties of *North-Wales*, towards the setting forth of one Ship of Four Hundred Tunns. } 1122 *l.*

Item, With the Sum of 575 *l.* received of the Sheriff of *Flint*, as part of the Sum of Four Thousand Pounds charged upon the Counties in *North-Wales*, towards the setting forth of one Ship of Four Hundred Tunns. } 575 *l.*

Item, With the Sum of 864 *l.* received of the Sheriff of *Montgomery*, as part of the Sum of Four Thousand Pounds charged upon the Counties in *North-Wales*, towards the setting forth of one Ship of Four Hundred Tunns. } 864 *l.*

Item, With the Sum of 416 *l.* received of the Sheriff of *Merioneth*, as part of the Sum of Four Thousand Pounds charged upon the Counties in *North-Wales*, towards the setting forth of one Ship of Four Hundred Tunns. } 416 *l.*

Item, With the Sum of 933 *l.* received of the Sheriff of *Brecknock*, as part of the Sum of Five Thousand Pounds charged upon the Counties in *South-Wales*, towards the setting forth of one Ship of Five Hundred Tunns. } 933 *l.*

Item, With the Sum of 654 *l.* received of the Sheriff of *Cardigan*, as part of the Sum of Five Thousand Pounds charged upon the Counties in *South-Wales*, towards the setting forth of one Ship of Five Hundred Tunns. } 654 *l.*

Item, With the Sum of 1449 *l.* received of the Sheriff of *Glamorgan*, as part of the Sum of Five Thousand Pounds charged upon the Counties in *South-Wales*, towards the setting forth of one Ship of Five Hundred Tunns. } 1449 *l.*

Item, With the Sum of 790 *l.* received of the Sheriff of *Carmarthen*, as part of the Sum of Five Thousand Pounds charged upon the Counties in *South-Wales*, towards the setting forth of one Ship of Five Hundred Tunns. } 790 *l.*

Item, With the Sum of 683 *l.* 10 *s.* received of the Sheriff of *Pembrock*, as part of the Sum of Five Thousand Pounds charged upon the Counties in *South-Wales*, towards the setting forth of one Ship of Five Hundred Tunns. } 683 *l.* 10 *s.*

Item, With the Sum of 490 *l.* 10 *s.* received of the Sheriff of *Radnor*, as part of the Sum of Five Thousand Pounds charged upon the Counties in *South-Wales*, towards the setting forth of one Ship of Five Hundred Tunns. } 490 *l.* 10 *s.*

And so the Total Sum charged on the said Sir *William Russel* Kt. and Baronet, Treasurer of the Navy, amounteth to 19640 *l.*

An. 1637.

Decembur 28. 1637. Touching the Corporation of *Soap-makers* of *London.*

WHereas the Kings moſt Excellent Majeſty, for the better prevention and reformation of ſuch Falſities and Deceits, as might be attempted and practiſed in the making of Soap within the Kingdom, and for the Regulation of that Trade in a juſt and orderly way, did, by Letters Patents under the Great Seal, Dated the 22d of May laſt, with the Advice of His Privy-Council, Incorporate Edward Bromfeild, then Lord Major of the City of London, and divers other Perſons Soap-makers in that City, by the Name of the Governor, Aſſiſtants, and Commonalty of the Society of Soap-makers of London; and hath thereby granted to them and their Succeſſors Power and Priviledge to make Seizure of all ſuch Soap, as ſhall be corruptly, or unduly made, with Inhibition to all other Perſons whatſoever to uſe, or exerciſe that Art, or Myſtery of Soap-making, unleſs they ſhall be made Free of, and allowed by the ſaid Society.

And His Majeſty, by an Indenture of the ſame Date, made between His Majeſty and the ſaid Company, hath provided, that Good and Merchantable Soap, of ſeveral ſorts, ſhall be made ſufficient for the uſe and expence of the Kingdom, and by them ſold at moderate Prices; ſome at three-pence half-peny the pound; and the Soap made of Oyl-Olive, &c. at four-pence half-peny the pound. And therefore the King commands all Perſons whatſoever, other than ſuch as are or ſhall be Free of the ſaid Society, that they do not from henceforth preſume to uſe or exerciſe the Art or Myſtery of Soap-making, to make any manner of Soap whatſoever without the allowance of the ſaid Society. And His Majeſty doth alſo prohibit the Importation, from Foreign Parts, of any hard or ſoft Soap, upon pain of Forfeiture, or if any Pot-Aſhes be Imported, that the ſame be brought only to the Port of London, and there to be ſold by the Importers to the ſaid Society of Soap-makers of London, and to no other Perſons. And to the end alſo that the Soap made by that Company may not be ſold by Retail, or in Groſs, at any exceſſive Prices; His Majeſty doth Charge and Command, That the Major, Bailiff, or other Chief Officer, with the Aſſiſtance of Two Juſtices of the Peace, in every City, Burrough, or Town, do limit ſuch Rates as they, in their Judgments ſhall think reaſonable; Conſideration being had, as well of the ſetled Prices paid to the ſaid Society, as of the Charge of Carriage, and other Caſualties. And His Majeſty doth Authorize the Governor, Aſſiſtants, and Commonalty of the ſaid Society, and their Deputies and Officers, with the Aſſiſtance of the Conſtable, to enter into any Houſes, Cellars, Shops, or other Places, and alſo into any Ships, Barques, or other Veſſels, to ſearch for, ſeize, take and carry away all ſuch Soap, as ſhall be found to be unduly made, not under the Rule, Government, or Allowance of the ſaid Society.

And whereas His Majeſty did heretofore Incorporate divers Perſons into one Body-Politick, by the Name of Governor, Aſſiſtants, and Fellows of the Society of Soapers of Weſtminſter; which Grant being afterwards ſtrengthned, as well with ſundry of His Majeſties Proclamations, as the Decrees and Orders of His High

High Court of Star-Chamber, and otherwiſe; the ſaid Society of Soapers hath ſince reſigned and ſurrendred into His Majeſties Hands, who hath Cancelled and Vacated the ſame, and all Proclamations, Orders, and Decrees, touching the ſaid Society of the Soapers of Weſtminſter that are no longer to be in force, or put in execution. Nevertheleſs His Majeſties Will and Pleaſure is, That neither Sir Richard Weſton Knight, nor the ſeveral Soapmakers of Briſtol, Bridgewater, Exeter, Somerſet, Dorſet, Devon, and Cornwel, nor any of them reſpectively, ſhall be reſtrained or impeached hereby, in the making and venting ſuch ſorts and proportions of Soap yearly, as they reſpectively are allowed to make and ſell in the particular Counties and Places, to them reſpectively Aſſigned. 13 *Caroli.*

February. Lord Chancellor of *Ireland* committed to Priſon.

A *Dam* Lord Viſcount *Loftus*, Lord Chancellor of *Ireland*, being in the Month of *February* required by the Lord Deputy to yield up unto him the Great Seal of the Realm of *Ireland*, he refuſed to do the ſame without particular Warrant from the King firſt obtained, whereupon he was committed to Priſon in *Dublin*-Caſtle for not obeying the Lord Deputies Commands.

Feb. 9. That the Book for *Sports* be read in Churches, and Certificates that the ſame is done.

THe Arch-Biſhop of *Canterbury* having, in his Metropolitical Viſitation, given Inſtructions to proceed againſt ſuch Miniſters as did not read His Majeſties Declaration publickly in the Church concerning Lawful *Sports* on the Lords-day, was imitated by other Biſhops in their reſpective Viſitations, who likewiſe required the Church-wardens upon Oath to repreſent, whether the Kings Declaration for Sports hath been read and publiſhed in the Church by the Miniſter? whereupon many were queſtioned if they could not produce a Certificate that they had read the ſame in the Church; the form of which Certificate was as followeth.

Theſe are to Certifie, That T. G. *Maſter of Arts, and Curate of* Hitchin *in* Hartfordſhire, *within the Archdeaconry of* Huntington, *according to the Injunction at the Viſitation there holden, did diſtinctly and treatably read, upon the* 29th *of* April, *being* Sunday *at Morning-Prayer, after the reading of the firſt Leſſon appointed for the day, moſt of the Pariſhioners being preſent, the Book Entituled*, The Kings Majeſties Declaration to His Subjects concerning Lawful Sports to be uſed.

William Lindall D. D.
Edw. Ratcliffe.

Beſides the Church-wardens Hands, *&c.* was put to the ſame.

Mr. *Lawrence Snelling*, Miniſter of the Church of *Pauls Cray* in the County of *Kent*, was Articled againſt in the High Commiſſion, for not reading the ſaid Book; and being called before them in Court, he Pleaded in his own defence the Law of God, and the Law of the Realm, the Authorities of Councils, Fathers, and late VVriters of all ſorts.

That the Declaration it ſelf appeared not to be His Majeſties, though Publiſhed in His Name, it being not Enrolled in any Court, nor Publiſhed under His Great Seal, as all Proclamations and Briefs

to

An. 1637. to be read in Churches are; that there was no Command at all of the Kings, it ſhould be read by any in Churches, much leſs by Miniſters; no puniſhment threatned, nor preſcribed for not reading it, no Authority given to Arch-biſhops, Biſhops, High-Commiſſioners, or any other Perſons to queſtion, ſuſpend, or puniſh any Miniſter for not reading it; and being a meer Civil, not Eccleſiaſtical Declaration, not enjoyned by any Eccleſiaſtical Canon or Authority, but Temporal only, he pleaded that no Eccleſiaſtical Judges could take cognizance of it, much leſs inflict any Eccleſiaſtical Cenſure for it, eſpecially in the High Commiſſion, it being no offence within the Statute of 1 *Eliz. Ch.* 1. or the Kings Commiſſion Eccleſiaſtical, whereby the High-Commiſſioners ſit, and ſo not queſtionable by them.

All which Particulars being put in his Anſwer, the High Commiſſion-Court (the Lord Arch-biſhop of *Canterbury* being then preſent) ordered the Anſwer not to be accepted, till matters unfit therein were expunged; which being done, they afterwards proceeded to Cenſure, as followeth.

A Sentence in the High Commiſſion againſt Mr. *Snelling*, for not reading the Book of *Sports*, &c.

Die Lunæ, *viz. nono die Menſis* Februarii *Anno Domini* 1637. *coram Commiſſionariis Regiis ad cauſas Eccleſiaſticas, apud Hoſpitium Advocatorum*, &c. *Judicial' ſeden' præſentibus* Stephano Knight *Deputato*, & Johanne Greenhil *Notario publico.*

Officium Dominorum con' Laurent' Snelling *Cleric' Rectorem de* Paulſcrai *in Com'* Cant', Dr. Ryves.

THe Cauſe is to be informed in, and finally Sentenced out of the ſaid Mr. *Snellings* Anſwer, and he is to appear this day to hear and receive the final Order and Judgment of the Court; at which day and place the ſaid *Laurence Snelling* being publickly called for, appeared perſonally, in whoſe preſence the Articles in this Cauſe exhibited againſt him, with his Anſwers made thereunto, were publickly read; and then Mr Dr. *Ryves*, His Majeſties Advocate, preſſed and enforced the Proofs againſt the ſaid Mr. *Snelling*, according as they appeared out of his Anſwers; and after that the ſaid Mr. *Snelling* was heard what he could ſay in his own defence; and after a mature and deliberate hearing of this Cauſe, it appeared to the Court,

That the ſaid Mr. *Snelling* was here charged, for that he being a Miniſter in Holy Orders of Prieſthood, conſtituted by the Authority of the Church for theſe twenty years laſt paſt and upwards, Rector of *Pauls Cray* aforeſaid, for all that time and upwards, was within theſe four or five years laſt paſt made acquainted, that a certain Book Entituled, *The Kings Majeſties Declaration for Lawful Recreations after Evening-Prayer on* Sundays *and Holidays*, was come forth, and commanded by His Majeſty to be read by all Miniſters in their reſpective Pariſh-Churches, and preſented to Mr. Dr. *Wood*, Chancellor of *Rocheſter*, his Ordinary, on the 20*th* of *November* 1633. for refuſing to read and publiſh the ſame in his Pariſh-Church of *Pauls-Cray.*

That upon the ſaid Preſentment he was by his ſaid Ordinary perſonally moniſhed to read the ſame within three weeks following; that

13 *Caroli.*

that on the 11*th* of *December* 1634. aforeſaid, he the ſaid *Laurence Snelling* being again Convented before his ſaid Ordinary, was *primo, ſecundo, & tertio,* perſonally and judicially moniſhed in Court to read and publiſh the ſaid Book in manner aforeſaid, which he refuſing, was ſuſpended *ab Officio & Beneficio*, and hath ſo continued until this preſent, and doth ſo ſtill continue unreleaſed; that on the third of *April* 1635. the ſaid *Laurence Snelling* being preſent in Court before his Ordinary, was 10, 20, and 30 Judicially admoniſhed to read and publiſh the ſaid Book for Lawful Recreations as aforeſaid, but did again utterly refuſe to publiſh or read the ſame, and was thereupon then excommunicated by his ſaid Ordinary, and hath ſo continued ever ſince, and doth ſo continue ſtill excommunicated; that within the time articulate the ſaid Mr. *Snelling* hath divers times omitted to read the Letany, and ſome other parts of Divine Service, and to wear the Surplice: and further, that he hath not bowed his Body, nor made any corporal obeyſance at the reading, or hearing read the Bleſſed Name of our Saviour *Jeſus*.

All which the Premiſſes appearing to be true in ſubſtance and in effect, out of the ſaid Mr. *Snellings* Anſwers, the Court proceeded to the giving of their Sentence in this Cauſe, and for the preſent did order, That unleſs the ſaid Mr. *Snelling* ſhall conform himſelf to the aforeſaid requiſitions of his Ordinary, and read and publiſh the ſaid Book for *Lawful Recreations*, &c. and do all due obeyſance and reverence, at the Bleſſed Name of our Saviour *Jeſus*, betwixt this and the ſecond Court-day of the next Term, he ſhould be *ex nunc, prout ex tunc*, deprived of his Rectory of *Pauls-Cray* aforeſaid, but pay no Coſts of Suit in caſe he be deprived; and to this end and purpoſe he the ſaid Mr. *Snelling* being preſent in Court, was Judicially admoniſhed to read and publiſh the ſaid Book, and to make Corporal Reverence at the Name of our Saviour *Jeſus*, *ſub pœna juris, & deprivationis*; and to the end that he may ſafely repair to his Church to practiſe, and certifie of his Conformity in the Premiſſes, (in caſe he ſhall be willing to conform accordingly) it was by the Court referred to the aforeſaid Ordinary Mr. Dr. *Wood* to abſolve the ſaid Mr. *Snelling* from the Sentence of Excommunication, under which he now ſtands, in caſe he ſhall come and deſire it of his ſaid Ordinary, and take his Oath *de parendo in juri, & ſtando mandatis Eccleſiæ*, &c. according to the form in this caſe provided. But Mr. *Snelling* refuſing to read *the Book of Sports*, &c. was deprived of his Living, and continued an Excommunicate Perſon, *&c.*

The Biſhop of Norwich *his Certificate concerning the* Book of Sports, *&c.*

TO the 12*th* Article, that upon Enquiry at my Viſitation, whether the Kings Majeſties Declaration for Lawful Sports had been Publiſhed? I found it had not been done in very many Places of the Dioceſs; having therefore about 60 Books at hand, I cauſed them to be propoſed to ſuch Perſons as I had moſt doubt of, but many

An. 1637. many of them refuſed to Publiſh the ſame, and were ſuſpended for their refuſal: yet divers of them preſently promiſed Conformity, and ſo were abſolved; ſo that now in the whole Dioceſs (conſiſting of about 1500 Clergy-men) there are not paſſing twice fifteen Excommunicated or Suſpended; whereof ſome ſo ſtand for Contumacy, in not appearing at the Viſitation and Synod, and ſtill refuſe to ſubmit, and others for obſtinate denying to Publiſh the Kings Declaration.

At White-Hall *the* 11th *of* February 1637.

Preſent,

The Kings Moſt Excellent Majeſty,

Lord Arch-biſhop of *Canterbury*,	Earl of *Holland*,
Lord *Keeper*,	Lord *Cottington*,
Lord *Treaſurer*,	Lord *Newburgh*,
Lord *Privy-Seal*,	Mr. *Treaſurer*,
Lord Marqueſs of *Hamilton*,	Mr. *Comptroller*,
Lord Great *Chamberlain*,	Mr. *Chamberlain*,
Earl *Marſhal*,	Mr. Secretary *Cook*,
Lord *Chamberlain*,	Mr. Secretary *Windebanke*.

Touching St. *Gregories* Church. *Feb.* 11.

WHereas the Board was now acquainted, that notwithſtanding His Majeſties Pleaſure ſignified by the Lord Treaſurer, and the Lord Cottington, to the Pariſhioners of St. Gregories, That the Church ſhould be taken down and removed, being a great impediment to the Work now in hand, for the perfecting and fully repairing of the Cathedral Church of St. Paul, the ſaid Pariſhioners had not as yet done the ſame, nor taken any order for the doing thereof. It was thereupon reſolved and ordered, according to His Majeſties expreſs Will and Pleaſure, as alſo now again declared, That the ſaid Church ſhall be taken down and removed by the laſt of March next.

And the ſaid Pariſhioners are hereby ſtraitly required and enjoyned to cauſe the ſame to be done and performed accordingly, as they will anſwer the contrary at their perils; His Majeſty expecting a dutiful and effectual account thereof from them by the time before limited.

This Order not being obeyed, produced another Order, following.

The laſt of *February* 1637. this Buſineſs came again before the Lords of the Council, which produced this further Order.

Touching St. *Gregories* Church. *Feb.* 28.

Order to pull down the Church of St. *Gregories.*

THis day two of the Petty Canons of the Cathedral Church of St Paul, and the Church-Wardens of the Pariſh of St. Gregories, did, by command from their Lordſhips, attend the Board, and were heard concerning the Petition formerly preſented in the Name of the ſaid Pariſhioners, wherein, upon pretence of diſability to undergo the Charge thereof, they were humble Suitors

13 Caroli.

toys, that they might be freed from taking down and removing of the Parish-Church, which by former Orders of the Board they were in His Majesties Name, and according to His express Command, required and directed to do, by the last of March next. Their Lordships finding no cause to vary in any particular from their said former Orders, did now again ratifie and confirm the same, and did require, that as well the Church-Wardens now present, as such others of the chief Parishioners, (unto whom the Lord Treasurer, and the Lord Cottington had already signified His Majesties Pleasure on that behalf) should, by the time limited as aforesaid, cause the said Church to be taken down and removed. And concerning the difficulty by them made, of finding out and procuring a fit place for the erecting of a new Church within the said Parish, and their disability for the present to undergo the charge of building the same; the former (as their Lordships did now well remember) was already recommended to the Lord Treasurer, and the Lord Cottington, unto whose directions therein their Lordships do now again refer them. And for the latter, in case their disability for the present be such, as that they are unable to erect a new Church; their Lordships leave it to their Election, whether they will build the same, or be assigned to any one or more Parishes in such manner as the Lord Bishop of London, Lord Treasurer, shall think fit and direct, and so remain and continue until a new Church shall be by them erected. And do recommend it to his Lordship, to take effectual order upon such Election by them made as aforesaid, for their accommodation therein accordingly.

Feb. 13. *Star-Chamber.*

INformation was preferred in *Star-Chamber* by the Kings Attorney-General, against *John Lilburne* and *John Warton*, for the unlawful Printing and Publishing of Libellous and Seditious Books, Entituled *News from Ipswich*, &c. they were brought up to the Office, and there refused to take an Oath to answer Interrogatories, saying it was the Oath *ex Officio*, and that no free-born *English* man ought to take it, not being bound by the Law to accuse himself, (whence ever after he was called *Free-born John*) his offence was aggravated, in that he printed these Libellous and Seditious Books, contrary to a Decree in *Star-Chamber*, prohibiting printing without License: which Decree was made this Year in the Month of *July*, and was to this effect.

July 1637. A Decree of *Star-Chamber* against Printing without License.

'THat none shall presume to Print any Book or Pamphlet 'whatsoever, unless the same be first Licensed with all the 'Titles, Epistles, and Prefaces therewith imprinted, by the Lord 'Arch-bishop of *Canterbury*, or the Bishop of *London* for the time 'being, or by their appointment; and within the Limits of either 'University, by the Chancellor or Vice-Chancellor thereof, upon 'pain that every Printer so offending shall for ever thereafter be dis-'abled to exercise the Art of Printing, and shall suffer such further 'punishment, as by this Court, or the High-Commission, shall be 'thought fitting; that before any Books Imported from Forreign 'Parts shall be exposed to sale, a true Catalogue thereof shall be 'presented to the Arch-bishop of *Canterbury*, or the Bishop of *Lon-'don*: And that no Officers of the Custom shall deliver any For-

An. 1637.

'reign Books out of their Hands and Cuſtody, before thoſe Biſhops 'ſhall have appointed one of their Chaplains, or ſome other Learn-'ed Man, with the Maſter and Wardens of the Company of *Stati-'oners*, or one of them, to be preſent at the opening of the Pack and 'Fardels, and to view the ſame. And thoſe that diſobey this In-'junction, are to be Cenſured in this or the High-Commiſſion 'Court, as the ſeveral Cauſes ſhall require. And if in this Search 'there happen to be found any ſchiſmatical or offenſive Books, they 'ſhall be brought to the aforeſaid Biſhops, or the High-Commiſſi-'on Office, that the Offenders may be puniſhed. That no Perſon 'whatſoever ſhall Imprint in the Parts beyond the Sea, or Import 'from thence, any *Engliſh* Books, or whereof the greater part is '*Engliſh*, whether formerly Printed or not. And that no Books 'whatſoever ſhall be re-printed, though formerly Licenſed, with-'out a new Licenſe firſt obtained, upon pain of like Cenſure and 'Puniſhment. And that if any Perſon whatſoever that is not an 'allowed Printer ſhall preſume to ſet up a Preſs for Printing, or 'work at any ſuch Preſs, or Set and Compoſe Letters for the ſame, 'he ſhall be ſet in the *Pillory*, and whipt through the City of '*London*.

The 13*th* of *February* the ſaid *Lilburne* and *Warton* were brought to the Bar at the Court of *Star-Chamber*, and the Court proceeded to Sentence, which you have here in the very words, as they were entred in the Regiſters Book, written out by Mr. *Arthur* himſelf, the Deputy Regiſter, who was an able and friendly Man in his Place.

But before they proceeded to Sentence this enſuing Order was read.

In Camera Stellat' coram Concilio ibidem 9. *die* Febr. *Anno* 13 Car' *Regis*.

John Lilburne and Warton brought to the Bar.

'UPon Information this day to this Honourable Court, by Sir '*John Banks* Knight, His Majeſties Attorney-General, That '*John Lilburne* and *John Warton*, who are now at the Bar of this 'Court, were the 24*th* of *January* laſt ordered to be examined up-'on Interrogatories touching their unlawful printing, publiſhing, 'and diſperſing of Libellous and Seditious Books, contrary to the 'Decree of this Court, which was verified by *Affidavit*; and being 'brought up to the Office to appear and be examined accordingly, 'the ſaid *Lilburne* refuſed to appear, and both of them denied to 'take an Oath to make anſwer to Interrogatories, as appears by 'Certificate of Mr. *Goad*: It was humbly pray'd that their Ap-'pearance may be Recorded, they being now preſent in Court, and 'that they may now have their Oaths tendred unto them; which 'if they ſhall refuſe to take, that then this Court will proceed to a 'Cenſure againſt them for their high Contempt therein, as hath 'been uſed in like Caſes, which the Court held fit. And hath 'therefore ordered, That their Appearance ſhall be Recorded, as is 'deſired. And for that the ſaid Delinquents do now again moſt 'contemptuouſly refuſe to take their Oaths now tendred to them in

'open

13 *Caroli.*

'open Court. Their Lordſhips have further ordered, That the 'ſaid *Lilburne* and *Warton* ſhall be remanded to the Priſon of the 'Fleet, there to remain cloſe Priſoners until they conform themſelves in obedience to take their Oaths, and be examined; 'and that unleſs they do take their Oaths, and yield to be examined by *Monday*-night next, their Lordſhips will, on the laſt ſitting 'of this Term, proceed to Cenſure againſt them for their contempts 'therein, as is deſired.

Hereupon the Court proceeded to Sentence.

In Camera Stellata coram Concilio ibidem 13 *die* Febr' *Anno decimo tertio* Car' *Regis.*

The Decree and Sentence in *Star-Chamber* againſt *Jo. Lilburne*, as it is on Record.

'WHereas, upon Information to this Court the ninth of this 'inſtant *February*, by Sir *John Banks* Knight, His Majeſties Attorney-General, That *John Lilburne* and *John Warton* '(then preſent at the Bar) were the 24*th* of *January* laſt ordered to be 'examined upon Interrogatories touching their unlawful printing, 'importing, publiſhing, and diſperſing of Libellous and Seditious 'Books, contrary to the Decree of this Court, which was verified 'by *Affidavit*; and being brought up to the Office to appear and be 'examined, the ſaid *Lilburne* refuſed to appear, and both of them 'denied to take an Oath to make ſome anſwer to Interrogatories, 'as appeared by the Certificate of Mr. *Goad*, DeputyClark of this 'Court: The Court did on that day order, That their Appearances ſhould be Recorded, they being preſent in Court as aforeſaid; 'And that in reſpect the ſaid Delinquents did then again contemptuouſly refuſe to take their Oaths tendred to them in open 'Court, they ſhould be remanded to the Priſon of the *Fleet*, there 'to remain cloſe Priſoners, until they conformed themſelves in obedience to take their Oaths and be examined; and that unleſs they 'did take their Oaths, and yield to be examined by *Monday*-night 'then next following, and now laſt paſt, their Lordſhips would on 'this ſitting-day proceed to a Cenſure againſt them for their contempts therein. Now this day the ſaid *Lilburne* and *Warton* being 'again brought to the Bar, His Majeſties ſaid Attorney informed 'this Honourable Court, that they ſtill continued in their former 'obſtinacy, and contemptuouſly refuſed to take their Oaths, to 'make true anſwer to the Interrogatories, although they had been 'ſent for, and their Oaths aſſented to be given unto them by Mr. 'Goad, Deputy-Clark of this Court, who now certified the ſame in 'Court: And therefore His Majeſties ſaid Attorney humbly pleaded 'on His Majeſties behalf, That their Lordſhips would now proceed 'to Cenſure againſt the ſaid Delinquents, for their great contempts 'and diſobedience therein. Whereupon their Lordſhips endeavoured, by fair perſwaſions, to draw them to conformity and obedience, and withal offered, that if they yet would ſubmit and take 'their Oaths, their Lordſhips would accept thereof, and not proceed to Cenſure againſt them. But ſuch was the inſufferable diſobedience and contempt of the ſaid Delinquents, that they ſtill 'perſiſted in their former obſtinacy, and wilfully refuſed to take

An. 1637. 'their Oaths. In reſpect whereof the whole Court did, with an 'unanimous conſent, declare and adjudge the ſaid *Lilburne* and '*Warton* guilty of a very high contempt and offence of dangerous 'conſequence and evil example, and worthy to undergo very ſharp, 'ſevere, and exemplary Cenſure, which might deter others from 'the like preſumptuous boldneſs in refuſing to take a legal Oath; 'without which many great and exorbitant offences, to the preju-'dice and danger of His Majeſty, His Kingdoms, and Loving Sub-'jects, might go away undiſcovered, and unpuniſhed. And there-'fore their Lordſhips have now ordered, adjudged and decreed, 'That the ſaid *Lilburne* and *Warton* ſhall be remanded to the *Fleet*, 'there to remain until they conform themſelves in obedience to 'the Orders of this Court, and that they ſhall pay Five Hundred 'Pounds a-piece for their ſeveral Fines to His Majeſties uſe; and 'before their enlargements out of the *Fleet*, become bound with 'good Sureties for their good behaviour. And to the end that 'others may be the more deterred from daring to offend in the like 'kind hereafter, the Court hath further ordered and decreed, That 'the ſaid *John Lilburne* ſhall be whipt through the Streets, from the 'Priſon of the *Fleet* unto the *Pillory*, to be erected at ſuch time, and 'in ſuch * place as this Court ſhall hold fit and direct; and that both 'he and the ſaid *Warton* ſhall be both of them ſet in the ſaid *Pillory*, 'and from thence be returned to the *Fleet*, there to remain accor-'ding to this Decree.

* The Pillory was placed between *Weſtminſter-Hall-Gate* and the *Star-Chamber*.

And the following Year in *Eaſter-Term*, falling on the 18*th* of *April* was this Sentence executed with the utmoſt rigour on *Lilburne*, who was ſmartly whipt from the *Fleet* to *Weſtminſter*.

Whilſt he was whipt at the Cart, and ſtood in the *Pillory*, he uttered many bold Speeches againſt the Tyranny of Biſhops, *&c.* and when his Head was in the hole of the *Pillory*, he ſcattered ſundry Copies of Pamphlets, (ſaid to be ſeditious) and toſſed them among the People, taking them out of his Pocket; where-upon the Court of *Star-Chamber* (then ſitting being informed) im-mediately ordered *Lilburne* to be gagged during the reſidue of the time he was to ſtand in the *Pillory*, which was done accordingly; and when he could not ſpeak, he ſtamped with his Feet, thereby intimating to the Beholders, he would ſtill ſpeak were his Mouth at liberty; and the Court of *Star-Chamber* that day made alſo this fol-lowing Order.

April 8. 1638. *John Lilburne* uttered ſcan-dalous Spee-ches in the *Pillory*.

'WHereas *John Lilburne*, Priſoner in the *Fleet*, by Sentence in '*Star-Chamber*, did this day ſuffer condign Puniſhment for 'his ſeveral offences, by whipping at a Cart, and ſtanding in the '*Pillory*, and (as their Lordſhips were this day informed) during 'the time that his Body was under the ſaid Execution, audaciouſly 'and wickedly, not only uttered ſundry ſcandalous and ſeditious 'Speeches, but likewiſe ſcattered ſundry Copies of Seditious Books 'amongſt the People that beheld the ſaid Execution, for which 'very thing, amongſt other offences of like nature, he had been 'Cenſured in the ſaid Court by the aforeſaid Sentence. It was 'thereupon ordered by their Lordſhips, That the ſaid *Lilburne* 'ſhould be laid alone with Irons on his Hands and Legs in the

'Wards

13 *Caroli.*

'Wards of the *Fleet*, where the baſeſt and meaneſt ſort of Priſo-
'ners are uſed to be put, and that the Warden of the *Fleet* take
'ſpecial care to hinder the reſort of any Perſon whatſoever unto
'him, and particularly that he be not ſupplied with any Hand, and
'that he take ſpecial notice of all Letters, Writings, and Books
'brought unto him, and ſeize and deliver the ſame unto their Lord-
'ſhips; And take notice from time to time who they be that re-
'ſort to the ſaid Priſon to viſit the ſaid *Lilburne*, or to ſpeak with
'him, and inform the Board. And it was laſtly ordered, That
'hereafter all Perſons that ſhall be produced to receive Corporal
'Puniſhment according to Sentence of that Court, or by order of
'the Board, ſhall have their Garments ſearched before they be
'brought forth, and neither Writing nor other thing ſuffered to be
'about them, and their Hands likewiſe to be bound during the time
'they are under Puniſhment, whereof (together with the other
'Premiſſes) the ſaid Warden of the *Fleet* is hereby required to take
'notice, and to have ſpecial care, that this their Lordſhips Order
'be accordingly obſerved.

And on the ſaid 18*th* of *April* it was further ordered by the ſaid Court of *Star-Chamber*,

John Lilburne to be examined touching his Speeches in the *Pillory*, and diſperſing Libellous Books.

'THat His Majeſties Attorney and Sollicitor-General ſhould be
'hereby prayed and required, to take ſtrict examination of
'*John Lilburne* Priſoner in the *Fleet*, touching the demeanour and
'Speeches of him the ſaid *Lilburne* during the time of his whipping
'and ſtanding in the *Pillory* this day, according to ſentence of His
'Majeſties Court of *Star-Chamber*, particularly, whether the ſaid
'*Lilburne* did at that time utter any Speeches tending to Sedition, or
'to the diſhonour of the ſaid Court of *Star-chamber*, or any Member
'of the ſaid Court? and whether he did throw about and diſperſe
'at the ſame time any Seditious Pamphlets and Books, either of
'that ſort for which he was formerly Cenſured, or any other of
'like nature? What the Speeches were, and who heard them?
'what the ſaid Books were, and whence and of whom the ſaid
'*Lilburne* had them? and what other material Circumſtances they
'ſhall think fit to examine, either the ſaid *Lilburne* upon, or any
'other Perſon by whom they ſhall think good to inform them-
'ſelves for the better finding out the truth: And thereupon to
'make Certificate to the Board what they find, together with their
'opinions.

Lilburne having for ſome time endured cloſe Impriſonment, lying with double Irons on his Feet and Hands in the Inner-Wards of the Priſon, there happened a Fire in the Priſon of the *Fleet*, near to the place where he was a Priſoner, which gave a jealouſie that *Lilburne*, in his fury and anguiſh of pain, was deſperate, and had ſet the *Fleet-Priſon* on fire, not regarding himſelf to be burnt with it; whereupon the Inhabitants without the *Fleet*, (the Street then being not five or ſix yards over from the Priſon-door) and the Priſoners within all cryed, *Releaſe* Lilburne, *or we ſhall all be burnt*; and thereupon they run head-long, and made the *Warden* remove him out of his Hold, and the Fire was quenched, and he remained a Pri-

An. 1637. a Priſoner in a place where he had ſome more Air. He continued in Priſon till *November* the third 1640. when the *firſt long Parliament* begun, and then he was releaſed.

We beg of the Reader further pardon for a little digreſſion. This very *John Lilburne*, after he had ſerved the Parliament in the War many years, was impriſoned by them for ſpeaking and publiſhing things againſt them, as *Uſurpers, and Enemies to* Magna Charta, *&c.* which offended thoſe times; whereupon he was baniſhed the Kingdom on pain of death if he did return; but return he did, in defiance of thoſe then in Power, and was thereupon ſent to *Newgate*, and Arraigned at the Seſſions-Houſe in the *Old-Bayly* for his Life, and was there publickly acquitted by a Jury of Life and Death, notwithſtanding the Law made to baniſh him; which for Joy occaſioned a great Acclamation of the People then preſent. He writ many Books againſt thoſe then in Power and Authority, and ſome particular Members thereof; inſomuch as it was ſaid by *Henry Martin* in favour of him, That if there were none living but himſelf, John *would be againſt* Lilburne, *and* Lilburne *againſt* John. At laſt he dyed a *Quaker*, and was buried in the Church-yard near *Bedlam*, 4000 Citizens and others accompanying his Corps to the Grave.

Pardon digreſſion a little more to what followeth.

When the Impeachment of the Houſe of Commons on *John Lilburnes* behalf went up to the Houſe of Peers againſt thoſe his Judges in *Star-Chamber*, it was thus urged by thoſe that managed the ſame.

THat *Impriſonment* is a Man buried alive, is made *Corpus immobile Legis*, the immoveable Subject of the Law. There is an end when Life is taken away, but in this no end. *Nondum tibi cedit in gratiam*, to put a Man out of his pain was accounted a Favour by the *Romans*.

Cloſe Impriſonment was never uſed to the Primitive Chriſtians by any Tyrant; for then that heavy Charge in Scripture, *I was in Priſon, and ye viſited me not*, might be anſwered; but a Cloſe Impriſonment may preſume a Famiſhment, and ſo Death. The *Romans* had four Puniſhments, *Lapidatio*, *Combuſtio*, *Decollatio*, and *Strangulatio*, but never famiſhing to death. This Man might have been ſo, as it was ſworn.

Three years Impriſonment till the Parliament releaſed him, and might otherwiſe have been for ever.

Whipping was painful and ſhameful, *Flagellation* for Slaves. In the Eleventh of *Elizabeth*, one *Cartwright* brought a Slave from *Ruſſia*, and would ſcourge him, for which he was queſtioned; and it was reſolved, That *England* was too pure an Air for Slaves to breath in. And indeed it was often reſolved, even in *Star-Chamber*, That no Gentleman was to be whipt for any offence whatſoever; and his whipping was too ſevere. The Manager further ſaith,

That *John Lilburne* was a Free Citizen of *London*, diſcended from an ancient Family in the *North*, a Town in *Northumberland*, ſtill bearing the Name of *Lilburne*, or rather *Le-Iſle-borne*, by reaſon of the Water * that runs about it. The Arms belonging to the Family are three Water-budgets, an ancient bearing of Arms.

* Called the *Bourne.*

Now

Now as to his whipping, obſerve the diſtance, from the *Fleet* to *Weſtminſter* is about a Mile, that he had 500 Blows (one ſwears a great many more) with a terrible Corded-whip with knots upon it. 13 *Caroli.*

Among the *Romans* no Malefactor had above 40 Stripes, and with three Thongs; and St. *Paul* received but 39 Stripes, which was but 13 Blows. And it is worth the obſervation, that not long ſince, at *Orleans* in *France*, a *Prieſt* was ſentenced to be whipt for Fornication with a poor Maid, telling her, that St. *Francis* would come and lye with her ſuch a night, at which time he feigned himſelf to be St. *Francis*, and was taken in Bed with her. The Kings Advocates preſſed the Judges, that he might receive 14 Blows with a three Corded-whip; but the Judges would not Sentence him to more than 13 Blows, becauſe *Ampliandi ſunt favores*; but if our Arithmetick be right, (not to ſport with his pain) *Lilburne* had by this Numeration, three times Five Hundred Stripes in 500 Blows. The Manager further urged,

That this Puniſhment of the *Pillory* was firſt invented for Mountebanks and Cheats, that having gotten upon Banks and Fourms to abuſe the People, were exalted in the ſame kind to be ſet upon the *Pillory*, in open ſhame to the Multitude.

Now *Gagging* is barbarous, and beaſtly; for Man differs from Beaſts both *Ratione* and *Oratione*.

So that to ſum up his Sufferings, by Impriſonment he was made a dead Trunk; by whipping, a Rogue; by Pillory, a Cheat; and by Gagging, a Beaſt. They had better have hanged him outright, *&c.*

Here followeth an Order of the Houſe of Peers made upon *John Lilburne's* Appeal to them *Anno* 1640. againſt his Cenſure in *Star-Chamber*, and his Impriſonment, *&c.* which the Reader is deſired to take in good part, although it be a digreſſion in point of time.

John Lilburne.

WHereas the Cauſe of John Lilburne Gent. came this day to a Hearing at the Bar, by his Councel, being tranſmitted from the Houſe of Commons, concerning a Sentence pronounced againſt him in the Star-Chamber, Feb. 17. Anno 13 Car. Regis, and after an Examination of the whole Proceedings, and a due conſideration of the ſaid Sentence, it is this day adjudged, ordered, and determined by the Lords in Parliament Aſſembled, That the ſaid Sentence, and all Proceedings thereupon, ſhall forthwith be for ever totally vacuated, obliterated, and taken off the File in all Courts where they are yet remaining, as illegal, and moſt unjuſt, againſt the liberty of the Subject, and the Law of Land, and Magna Charta, and unfit to continue upon Record; and that the ſaid Lilburne ſhall be for ever abſolutely freed, and totally diſcharged from the ſaid Sentence, and all Proceedings thereupon as fully and amply, as though never any ſuch thing had been. And that all Eſtreats and Proceſs in the Court of Exchequer for levying of any Fine (if any ſuch be) ſhall be wholly cancelled and made void, any thing to the contrary in any wiſe notwithſtanding.

John Brown Cler. Parliament.

'Whereas

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Mr. *Powels* Sermon referred to be examined, and to be certified. *March* 4.

Paſſages in a Sermon, that Taxes ought to be paid, be they never ſo unjuſt and cruel.

'WHereas *Richard Powel* Clark hath attended this Board in 'the Cuſtody of a Meſſenger, at which time the Letter 'ſent by you Sir *Richard Samuel* was read at the Board, as alſo the 'Teſtimonies returned in this Cauſe; and upon hearing him, we 'do find, that perceiving ſome People in the Pariſh unſatisfied, by 'reaſon of the *diſtreſs made for the Ship-money*, he took occaſion, 'upon the Text mentioned in the Teſtiment, *viz. Give to* Cæſar *the 'things that be* Cæſars, and unto God the things which are Gods, to tell 'them that Subjects ought to pay the Taxes laid on them by their 'Kings, *although they were cruel and unjuſt*, inſtancing in *Saul*; and 'that ſuch Kings were ſometimes *given to a Nation by God in his 'wrath*, for the Peoples ſins; and that if we had ſuch a King, we 'ought notwithſtanding *to ſubmit unto him*; or words to that effect: 'but bleſſed be God he hath given us a *Gracious King*, ſuch as no Age 'can parallel, whom God long continue over us; *ſhall not we then be 'obedient unto him*? which words are wholly omitted in all the Te-'ſtimonies, and do clearly interpret the former Paſſages, and do 'juſtifie him in what he delivered to the People. And the Meſſen-'ger, who went for the ſaid *Powel*, doth teſtifie, that ſundry of the 'Pariſhioners did bear witneſs of the adding of theſe laſt words, 'which if it prove true, argues very little ſincerity in the accuſa-'tion, and in the Teſtimonies. Upon conſideration therefore of 'the Premiſſes, we have thought fit to intreat you Sir *Richard Sa-'muel*, and you Mr. Doctor *Clark*, and Mr. Doctor *Sibthorpe*, or 'any two of you, to examine the truth hereof, as well by exami-'nation of ſuch Witneſſes as you ſhall think fit, as by the Notes of 'his Sermon; for which purpoſe we ſend you back the ſaid Notes 'ſealed up, together with all the other Papers preſented unto us. 'And do pray and require you to certifie to us, how you find the truth 'of the Caſe to ſtand, together with your Opinions of the ſame, to 'the end, that if he have been thus vexed and put to charge with-'out juſt cauſe, we may think how to give him a due reparation 'of the ſame, and from whom the ſame ſhall come. And ſo we 'bid, *&c.*

March 11.

AT this time News came from *Scotland*, That the Kings Procla-mation, Dated the 19*th* of *February*, publiſhed at *Striveling* the beginning of *March*, wherein His Majeſty declares, That he ordained the Book of Common-Prayer to be compiled for edification of the Kings Subjects in *Scotland*, and to maintain the true Reli-gion already profeſſed there.

Archibald the Kings Fool.

And it ſo happened, that on the 11*th* of the ſaid *March*, that *Archibald*, the Kings Fool, ſaid to his Grace the Arch-biſhop of *Canterbury*, as he was going to the Council-Table, *Whea's feule now?* doth not your Grace hear the News from *Striveling* about the Liturgy? with other words of reflection; this was preſently complained of to the Council, which produced this enſuing Order.

At

13 *Caroli.*

At White-Hall *the* 11th *of* March 1637.

Preſent,

The Kings Moſt Excellent Majeſty;

Lord Arch-biſhop of *Canterbury*,	Earl of *Dorſet*,
Lord *Keeper*,	Earl of *Salisbury*,
Lord *Treaſurer*,	Earl of *Holland*,
Lord *Privy-Seal*,	Lord *Newburgh*,
Lord Duke of *Lenox*,	Mr. *Treaſurer*,
Lord Marqueſs of *Hamilton*,	Mr. *Comptroller*,
Earl *Marſhal*,	Mr. Vice-*Chamberlain*,
Lord *Chamberlain*,	Mr. Secretary *Cook*,
Earl of *Northumberland*,	Mr. Secretary *Windebanke*.

Archibald the Kings Fool baniſhed the Kings Court.

IT is this day ordered by His Majeſty, with the Advice of the Board, That Archibald Armeſtrong, **the Kings Fool, for certain ſcandalous words of a high nature, ſpoken by him againſt the Lord Arch-Biſhop of** Canterbury **his Grace, and proved to be uttered by him by two Witneſſes, ſhall have his Coat pulled over his head, and be diſcharged of the Kings Service, and baniſhed the Court; for which the Lord Chamberlain of the Kings Houſhold is prayed and required to give order to be executed. And immediately the ſame was put in execution.**

Mr. *Claypoole* to be proceeded againſt in the *Star-Chamber*.

WHereas *John Claypoole* Gent. was ſent for by Warrant for his miſdemeanours to His Majeſties Service in the *Collection of the Ship-Money*: It was this day thought fit and ordered, That Mr. Attorney-General ſhall examine him, and thereupon proceed againſt him in *Star-Chamber*, as he ſhall think beſt and fitteſt for His Majeſties Service; for which purpoſe the Informations againſt the ſaid *Claypoole* are to be ſent herewith to His Majeſties ſaid Attorney.

A Diſcourſe concerning the High Court of Star-Chamber.

UPon occaſion of the Exemplary Puniſhment of Mr. *Prynn*, about his *Hiſtrio-Maſtix* *Anno* 1633. and of his loſing his Ears the ſecond time *Anno* 1637. it will not be unſeaſonable to deliver ſomething of the Nature and Prerogative of that Court which inflicted it, *viz.* the High Court of *Star-Chamber*, being an Abſtract of a Treatiſe written by a Perſon well acquainted with the Proceedings of the ſame.

There is little mention made of this Court, either in Reports, or Treatiſes of the Law, except now and then diſperſedly in ſome one or two Cauſes, in an Age where it is mentioned rather, as it ſeemeth, to manifeſt to Poſterity that there was ſuch a Court, than to enlighten the World with the lawful Power, Authority, and Juriſdiction thereof.

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Only Sir *Thomas Smith*, in his Common-wealth hath glanced upon it, and Mr. *Lambert*, the ancient Antiquary, treateth of the Power and Juriſdiction of it; and the reaſon probably why the Learned of the Laws did, in their Reports, forbear to make mention thereof was, becauſe it intrenched in thoſe days, as of late time, too much upon the Common Law of *England*; and the abuſe in the exerciſe of the Juriſdiction of the Court, might induce the Sages of the Law to paſs it over in ſilence, as an Uſurpation of *Monarchy* upon the Common Law of *England*, in the prejudice of the liberty of the Subject, granted by the *Great Charter*.

And without peradventure, thoſe good Laws made in *Edw.* the 3*d*'s time, to preſerve the Liberty of the Subject, were chiefly grounded upon the unlimited Power which this Court did then take to it ſelf.

The Reaſon of the name of the Court.

In our Ancient *Year-Books* it is called *Camera Stellata*, not becauſe the Chamber where the Court is kept is adorned with Stars, but becauſe it is the Seat of the *Great Court*, and the Name is given according to the Nature of the Judges thereof; *Denominatio* being *a præſtantiori*, and *majus dignum trahit ad ſe minus*. And it may be ſo fitly called, becauſe the *Stars* (in the common opinion) have no light, but that which is caſt upon them from the Sun by reflection, it being a repreſentative Body; and as King *James* was pleaſed to ſay when he ſate there in His Royal Perſon, *Repreſentation muſt needs ceaſe when the Perſon is preſent*.

So in the preſence of His Majeſty, which is the Sun of Honour and Glory, the ſhining of thoſe Stars is put out, not having any power to pronounce any Sentence in this Court, (for the Judgment is the Kings only) but by way of advice to deliver their opinions, which His Wiſdom alloweth or diſalloweth, increaſeth or abateth at His Royal Pleaſure; which was performed by King *James*, even like unto *Solomons* Wiſdom, in the great Caſe of the Counteſs of *Exeter* againſt Sir *Thomas Lake*, wherein His Majeſty ſate five continued days in a Chair of State, elevated above the Table, about which his Lords ſate, and after a long and patient Hearing, and the Opinions particularly of His Great Council, He pronounced a Sentence more Accurately, Eloquently, Judicially, Grave, and Honourably, more Juſt, to the ſatisfaction of all Hearers, and all the Lovers of Juſtice, than all the *Records* extant in this Kingdom can declare to have been done by any of His Royal Progenitors.

'There is no Man will deny, that in all Monarchies the King is the Fountain of all Juſtice, to whom is the firſt Refuge for thoſe that are diſtreſſed, and the laſt to whom Appeals are to be made.

And *Bracton*, Father of our Laws, (who writ in the Reign of King *Henry* the 3*d*) doth agree it to be the Law of *England*.

And *Britton*, (who writ in *Edward* the firſt's time) beginneth his Treatiſe to the ſame purpoſe, and concludeth writing in the Kings Name: *We will that Our own Juriſdiction be above all Juriſdictions, in all Caſes Real and Perſonal.* Admitting then the King to be Supreme Judge of all, and ſitting in His Throne of Majeſty with His Wiſe Men and Sages, diſtributing Juſtice in His Royal Perſon,

13 *Caroli.*

Perſon, or by His Council hath found himſelf and them over-charged, and hath therefore committed His Pleas of the Crown to certain Judges, Matters of Common Right to other Juſtices, and to others the Affairs of His Revenue; all which, before they were diſtributed to others, were more properly determinable before Himſelf and His Council.

This Court not founded in *Henry* the 7th's time.

And therefore it is plain, that this Court was not founded by Act of *Parliament* in *Hen.* the *7th's* time. And it was ſolemnly adjudged by the Chief-Juſtices of *England*, Sir *Edward Cooke*, and the Lord *Hobert*, attended by the Kings Learned Council, in the Caſe between the Earl of *Northumberland*, and Sir *Stephen Proctor*, publiſhed in open Court, that the Statute of 3 *Hen.* 7. extendeth not any way to this Court: But the Lords Authorized by the Act, may at all times in all places determine of the Matters therein ſpecified, 28 *Aſſ. Pag.* 52. *Coram nobis & Concilio*, is reſolved to be *Coram Rege in Camera*, which hath been ſo often affirmed by the Reverend Judge Sir *Edward Cooke*.

In the Ancient Laws of *England* we read of three Councils, *Commune Concilium*, *Magnum Concilium*, *& Privatum Concilium.*

For the firſt. In all our Writs founded upon any Ancient *Statute-Law*, the Writ beginneth, *Cum per Commune Concilium Regis noſtri proviſum*; by which it plainly appeareth, that *Commune Concilium* is the Aſſembly of the Lords Spiritual and Temporal, and the Commons in Parliament.

This Court is *Magnum Concilium Angliæ.*

And that there is *Magnum Concilium Angliæ*, it appears by the *Statutes* 32 *E.* 3. *Cap.* 18. That falſe Informers ſhall be brought before the Chancellor, Treaſurer, and Great Council, to find Sureties to endure *pœnam talionis*, if their Suggeſtions were falſe. And all the *Statutes* made after that Act of 37. as well of *Richard* the ſecond of Complaints before the Council, as of 13 *H.* 4. *Cap.* 7. for certifying Riots to the King and His Council, is intended His *Great Council*, which is the Court of *Star-Chamber*, afterwards by expreſs Name called *the Kings Council in the Star-Chamber*, 19 *H.* 7. *Cap.* 18. In the *Stat.* 33 *H.* 8. *Cap.* 1. For falſe Tokens. 4, *&* 5 of *Philip* and *Mary*, for ſecret contracting with young Maidens, and divers ſubſequent Acts of Parliament.

The third, which is *Privatum Concilium*, or the *Council of State*, mentioned in the Acts of *Eliz.* 1. It hath been queſtioned, whether it were all one with the Great Council? Surely there is none of the *Privy-Council* but is alſo of the *Great Council*; but perhaps ſome may be of the *Great Council*, which are not of the *Privy-Council.*

It was a glorious ſight upon a Star-day, when the Knights of the *Garter* appear with the Stars on their Garments, and the Judges in their Scarlet; and in that poſture they have ſate ſometimes from nine in the morning till five in the afternoon, before every one had done ſpeaking their minds in the Cauſe that was before them.

And it was uſual for thoſe that came to be Auditors at the Sentence given in weighty Cauſes, to be there by three in the morning, to get convenient places and ſtanding.

The Warden of the *Fleet* or his Deputy (then by name Mr. *Ingrain*)

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gram) in thoſe days was conſtantly attending in Court to receive their Lordſhips commands, as there was occaſion.

For the Dignity of this Court I find it's ſaid, that ſince the great *Roman Senate*, ſo famous to all Ages, as that they were called *pro Jure miraculum Orbis*, there hath no Court come ſo near them in State, Honour and Judicature; the Judges of this Court being ſurely, in Honour, State, and Learning, for Underſtanding, Juſtice, Piety, and Mercy, equal, and in many of them exceeding the *Roman Senate*, by ſo much as Chriſtian Knowledge exceedeth Humane Learning.

Nor hath this Court at any time wanted a *Cicero* or *Hortenſius*, to make a defence for ſuch as are there accuſed; nor is there any *Bar* of Pleading which affordeth ſo large a ſcope to exerciſe a good Orator, the uſual Subject being the *Defence of Honour and Honeſty*. But Chancellor *Elſmore* affecting Matter rather than Words, tyed the ſame to *Laconical* brevity; an Honour to a Court of Juſtice, to be ſway'd rather by ponderous Reaſons, than fluent and deceitful Speech.

It is not the leaſt Honour and Dignity to this Court, that the Sentences and Judgments of the ſame are not the opinion of any private perſon, but the Judgment of many Noble, Wiſe, and Learned Men conjoyned together; ſo that it is a Topick Rule for aſſurance of Truth.

Another manifeſtation of the Dignity of it is, That the Proceedings are *tam lento pede*, without precipitation, but giving time to the Defendant to defend or excuſe himſelf, both in producing Teſtimony, and in making defence at the Bar. And that it taketh hold in Judgment only of direct Proofs, ſpeaking Circumſtances, or more than probable Preſumptions, and theſe not ſingle but double; which cauſeth the Judgment thereof to be eſteemed worthily, like the Laws of the *Medes* and *Perſians*, irrevocable. Beſides the Reaſons of the Sentence being ſuccinctly collected and knit together, and ſagely delivered, by grave, learned and notable Perſonages, whoſe very Countenances add weight to their words, and who tye themſelves to Certainty, and not to conjectural Proofs.

The Lord *Chancellor* or *Keeper* (for their Places by Act of Parliament are all one) have divers Priviledges of Sovereignty belonging to them, as the Supreme Judge there, which ſurely doth belong in his abſence to him, who holdeth the Supreme Place in that Council.

There is no doubt, but the Lord *Chancellor* or Lord *Keeper* of the Great Seal is the Supreme Director of this High Court: For whereas any other Lord of the Preſence ſpeaketh not in the Court, unleſs his Head be uncovered, the Lord *Chancellor* or Lord *Keeper* ſpeaketh with his Head covered, as a Perſon to whom all the reſt owe a kind of Reſpect, or Reverence. And all *Dukes* and *Marqueſſes*, *Earls*, *Barons*, and Council of State in the Kingdom, attend the Hour and Occaſion of this great Lords going to ſit in this High Court: And at his own diſcretion he commandeth the Chief-Juſtice, or any other Judge, to ſit there at his pleaſure.

Beſides,

13 *Caroli.*

Beſides, this great Lord is the Mouth of the Court, to give Rule or Order, and hath a great Prerogative in that ſence, above all other Courts at *Weſtminſter:* For in other Courts, if the Opinions be equally divided, two one way, and two another way, there is no Judgment entred: But in this Court, if the Preſence be equally divided, the Lord *Chancellor,* or the Lord *Keepers* Voice, ſwayeth it one way or other.

It ſeemeth to be an Imitation of the High Court of Parliament; for there, in equality of Voices, the Speakers Voice is predominant. If the Lord *Chancellor* or Lord *Keeper* Condemn or Fine the Defendant or Plaintiff, then hath it ever been undoubted; for that in things indifferent the beſt for the Kings profit is to be taken, but where his Voice in equality acquitteth, yet the preheminence of his Judgment, weigheth down the Kings Profit, and the Perſon ſhall ſtand acquited. For ſo Sir *Stephen Proctor* was acquitted by the Voice of Chancellor *Elſmore*; and ſo it was reſolved by the Judges upon Reference made to them, and their Opinions, after deliberate hearing, and view of former Preſidents, was publiſhed in open Court.

This Court for the moſt part is repleniſhed with Dukes, Marqueſſes, Earls, Barons, alſo with Reverend Arch-Biſhops and Prelates, grave Councellors of State, learned Judges, ſuch a Compoſition for Juſtice, Religion, and Government, as may be well and truly ſaid, (whilſt ſo great a Preſence kept within their Bounds) *Mercy and Truth were met together.*

Their number in the Reign of *Hen.* 7. and *H.* 8. have been near 40 at one time, and 30 in the Reign of *Eliz.* oft-times; but ſince much leſſened. In King *Charles* His time there hath been 24 and 26 at a time, as in the Caſes of Mr. *Chambers,* Sir *James Bagg,* the Biſhop of *Lincoln,* and others.

Arch-Biſhop *Whitgift* did conſtantly in this Court maintain the Liberty of the *Free-Charter,* that none ought to be fined but *ſalvo Contenimento:* he ſeldom gave any Sentence, but therein did mitigate in ſomething the Acrimony of thoſe that ſpake before him; but the ſlaviſh Puniſhment of *Whipping,* &c. was not heard to come from the Noble Spirits in thoſe times ſitting in that Honourable Preſence.

When once this Court began to ſwell big, and was delighted with Blood, which ſprung out of the Ears and Shoulders of the Puniſhed, and nothing would ſatisfie the revenge of ſome Clergy-men but *cropt Ears, ſlit Noſes, branded Faces, whipt Backs, gag'd Mouths,* and withal to be thrown into Dungeons, and ſome to be Baniſhed, not only from their Native Country to remote *Iſlands,* but by Order of that Court to be ſeparated from Wife and Children, who were by their Order not permitted to come near the Priſon, where their Husbands lay in miſery; Then began the *Engliſh* Nation to lay to heart the ſlaviſh condition they were like to come unto, if this Court continued in its greatneſs.

Records

An. 1637.

Records touching ancient Proceedings in the Court of Star-chamber, *tranſcribed out of Manuſcripts, which remained in that Court.*

28 Book of Aſſize pag. 51.

Coram nobis & Concilio, reſolved to be *coram Rege & Concilio in Camera Stellat.*

So Sir *Edw. Cook.*

In the Regiſter Fol. 124. 6 & 191. & 167. *Rotul. Patent.* 55 *Hen.* 3. *Membran.* 17.

A Writ to appear before the King and His Council.

Barnard Nicholas a Merchant, queſtioned *coram Rege & Concilio,* for Fortune-telling, to the ſcandal of one *Arnold Griffin,* and was thereof acquitted.

30 *Ed.* 3. *Rotul. Patent. pars prima membran.* 15.

Spinks appeared upon proceſs *coram Rege & Concilio,* anſwered the Bill of one *Radland,* was afterwards acquitted, and *Radland* committed for his falſe accuſation.

Clauſ. 40 *Ed.* 3. *membr.* 3. *dorſo.*

Iſabel Falconberge appeared before the Council of the King in the Chamber of the Stars, near the receipt, about detaining of Deeds, and was there ordered and ſworn to deliver all the Deeds, ſaving thoſe that concerned her joynt Eſtate.

Clauſ. 6 *H.* 4. *membr.* 22.

The Writ now uſed in *Star-Chamber* to appear *coram Rege & Concilio, apud Weſtminſter in* 15. *Paſch. teſt.* 14. *Februarii ſub pœna* 400 *l.*

Clauſ. 17 *H.* 6.

In Camer' Stellat' coram Concilio Regis, Danvers acquitted of the raſure of a Record, and *Brocket* a Clerk of the Exchequer that did it, was fore-judged to have acceſs for writing in any of the Kings Courts of Record.

Clauſ. 17 *H.* 6. *membr.* 6.

John Foord appeared by Privy-Seal in *Camera Stellat' infra Palatium noſtrum Weſtmonaſter',* before the Lord *Cromwell* then Treaſurer, and *Fray* and *Fallam,* two of the Barons of the Exchequer, and was there examined upon Oath; and upon his examination, and the teſtimony of Witneſſes that were then examined, he was for fraudulent Packing of Wooll in Broad-Cloths, which he ſold to a *Dutchman* that tranſported them, committed to the *Fleet,* after ſent to the *Tower,* and ſet on the Pillory in *Cornhil.*

Rotul. Patent. 31 *Hen.* 6.

Ralph Lord *Cromwell* acquitted of the villanous accuſation of ſuſpicion of Treaſon.

Patent. 8 *Ed.* 4. *pars* 3. *membr.* 14.

The King and his Council in the *Star-Chamber* Heard and Decreed the matter of title, between the Maſter and Brethren of the Hoſpital of St. *Leonards* in *Yorkſhire,* and the Inhabitants in *Yorkſhire, Cumberland, Northumberland, Weſtmoreland,* touching *Peter Corne.*

In

In this Caſe of the Abbot of St. *Edmonsbury* againſt *Thurſton* and others, the Defendants were puniſhed before the King and His Council in the Court of *Star-Chamber*, for turbulent election of their Aldermen, a Conſtable, and other Officers. — 13 *Caroli.* *Rotul. Patent.* 20 *Ed.* 4. *pars* 1, or 2.

The Defendant fined five pound for contempt to the King, and to pay the Plaintiffs Coſts and Damages, and bound to his good behaviour. — 28 *Junii* 1 *Hen.* 7.

Bigott fined forty Marks upon Conviction of a Ryot. — 28 *Novembris*, 2 *Hen.* 7.

Debaſing of Price of Wooll complained of, out of a report beyond Seas; the Offender convented *coram Rege & Concilio*, and fined and ranſomed. — 43 Book aſſ. pl. 38.

The Lord Chancellor to have power to award damage againſt any Perſons, that ſhould make untrue ſuggeſtions againſt another before the King and His Council, or in *Chancery*. — Statutes directing to the Court 17. *R.* 2. *cap.* 6.

Scandalum Magnatum to be puniſhed by advice of the Kings Council (which the Books ſay, is the *Star-Chamber* and there it hath been frequently done). — 2 *R.* 2. *cap.* 11.

Publiſhers of falſe News and Tales to be puniſhed by advice of the Council of the King (*non obſtante Statuto.*) — 12 *R.* 2. *cap.* 11.

By the Preſidents before mentioned it doth appear, that the Court of *Star-Chamber* was far more ancient than 3 *Hen.* 7. and that it had been and exerciſed juriſdiction both in Civil and Criminal Cauſes before the Stat. 3. *Hen.* 7. — *Vide* 43. *aſſ. pl.* 18. 23, or 13. *E.* 4. 9. 2 *R.* 3. 10. 8 *H.* 7. 13.

Preſidents of later times.

Trin. 1 *Eliz. fol.* 66.

SEntenced 100 *l.* for executing the place of High-Sheriff without being Sworn; and 100 *l.* for making falſe return of a Writ for Election of Knights of the Shire. — Attorn. *verſ.* Jeroucker.

Hill. 2 *Eliz. fol.* 88.

For a Riotous taking away of a Priſoner, taken in the Wars with the *French*. — Breill *verſ.* Marten.

Paſc. 2 *Eliz. fol.* 93.

Sentenced for Riot, *&c. ſub pœna* awarded againſt them, to be ſent to the Fleet, and the Principal Defendants to pay her Servants Fines. — Smith *verſ.* Savery.

Michi

An. 1637.

Mich. 2 *Eliz. fol.* 102.

Verſ. Ruſſel & *alios.* A Commiſſion of Rebellion againſt the Defendants, directed to one Knight and three Eſquires,

Hill. 3 *Eliz. fol.* 118.

Hales *verſ.* Grouch. The Defendant ſentenced to ſtand in the Pillory with Papers, for ſaying he could ever find an *Oliver* for a *Rowland* among the Queens Council to bear him out in his matters.

Paſc. 3. *Eliz. fol.* 124.

Woodcock *verſ.* Barber. An Injunction to give Poſſeſſion *ſub pœna* 200 *l.* and that being diſobeyed, a Commiſſion to certain Perſons to put and continue them in Poſſeſſion; Commiſſion Recorded in the Court.

Paſc. 3 *Eliz. fol.* 125.

Lawley & *al'.* Fined and Committed for diſobedience and Contempt of the Queens Proceſs.

Paſc. 3 *Eliz. fol.* 129.

Simmons *vid. verſ.* Parry. The Plaintiff adjudged to ſtand in the Pillory with Papers, *pro falſo Clamore.*

Mich. 3 *Eliz. fol.* 129.

For hearing of Maſs diſcharged by the Queen, *propt. Submiſſ.*

Trin. 8 *Eliz. fol.* 138.

Lord Haſtings & *al' Comp. ſup. recog.* Ordinances for reformation of diſorders in Printing and Selling of Books.

Hill. 4 *Eliz. fol.* 155.

Attorn. *verſ. Ballives* Leichfeild. Mr. Attorney ordered to put in an Information againſt them, for that they made no inquiry, nor did not puniſh the great Riots Committed in *Leitchfeild.*

Paſc. 4 *Eliz. fol.* 167.

Broughton *verſ. Dom.* Howard Vic. Bindon. The Lord *Howard* for reviling one of the Plaintiffs Witneſſes, and calling him Knave, for that he had been examined againſt him, fined at 100 *l.*

Paſc. 4 *Eliz. fol.*

It was ordered by the Court that no Proceſs ſhould be awarded upon Bill of perjury for giving evidence to a Jury, whereon Verdict did paſs, unleſs the Juſtice before whom it was tried were made privy thereto.

Hill. 7 *Eliz. fol.* 58.

Attorn. *verſ.* Thyn. The Cauſe ſentenced *ſupra Confeſſionem* of ſome, and proceed to examine Witneſſes againſt the reſt.

Paſc.

13 *Caroli.*

Paſc. 7 *Eliz. fol.* 66.

The Arch-Biſhop of *Canterbury* and two other Biſhops, ſworn in Court by the Lord Chief Juſtice to be of the Queens Privy Council.

Hill. 8 *Eliz. fol.* 109.

The Defendant diſmiſt, and Plaintiff fined, 10 *l.* to ride in a Cart about the City, for that he keeping ill order in his Houſe, diſobeyed the Defendant being Conſtable, when he came with the Watch to apprehend ſome leud Perſons that were then in his Houſe. Shardg *verſ.* Bever.

Paſc. 9. *Eliz. fol.* 161.

Upon ſight of the Charter of the Biſhop of *Dureſm*, the two Chief Juſtices did certifie that the Biſhop had *Jura Regalia*, and thereby might hear and determine Riots. Conſtable *verſ.* Whittington.

That notwithſtanding, this Court (in matters where doubt of relief of Juſtice is) may hear Riots done within that County Palatine.

Paſc. 11 *Eliz. fol.* 241.

It was ordered by the Queen, that the Plaintiff ſhould re-examine as many of his Witneſſes as he would, and they to be examined by the Clerk of the Court. Mervin *verſ.* Mervin.

Paſc. Edw. 6. *fol.* 54.

The Cauſe to proceed as to the Party, notwithſtanding the Kings general Pardon. Reed *verſ.* Lygon.

34 *Eliz.* 30 *No.*

Deeds damned notwithſtanding the Pardon pleaded. Brereton *verſ.* Starkey.

Mich. 14 *Eliz. fol.* 34.

In this Cauſe after it was fully heard (for Forgery) the Defendants were allowed to examine more Witneſſes in their excuſe than were there at firſt, on a ſecond hearing; and then order for Witneſſes to be examined, and at laſt ſentence paſſed againſt the Defendants. Pyne *verſ.* Hill.

Hill. 35 *Eliz. fol.* 448.

The Plaintiff died a day or two before the Cauſe was to be heard, yet the Cauſe proſecuted by Mr. Attorney at the day without Bill of *Revivor* or *Subp. ad audiend. Judicium.* Gerrard *verſ.* Gregſham.

The Defendant ſentenced in this Court for delaying the execution of a Priſoner Convicted, notwithſtanding he was ſentenced in the Marches of *Wales* before for the ſame offence. Attorney *verſ.* Phillips.

Trin. 36 *Eliz. fol.* 207.

The Defendant ſentenced for beating his Grandfather, to be whipt before the Picture of his Grandfather, he being unable to come to the place where it was to be executed. Attorney *verſ.* Owen.

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Elliot *verſ.* Weblin.

Hill. 13 *Jac. fol.* 121.
The Defendant Committed for Arreſting the Plaintiff in the County, at ſuch time as he came to ſerve him with the Proceſs of this Court.

Jo. Smith Plaintiff.

Hill. 13 *Jac. fol.* 123.
Committed for ſerving proceſs in the Church after Divine Service ended.

Littleton *vid. verſ.* Lowe.

Paſc. 14 *Jac. fol.* 145.
For preferring a Scandalous and untrue Petition to His Majeſty, and for a Libel; fined, and to ſtand in the Pillory, good Behaviour, Damages 200 *l.*

Farrier *& al' verſ.* Oldfeild *& al'.*

Mich. 14 *Jac. fol.* 204.
For a Practice to retract under their hands their former Teſtimony.

Duns Montague *verſ.* Lutteſworth *& al'.*

Mich. 14 *Jac. fol.* 210.
The Attorney General Sir *Francis Bacon*, ſate as a Privy Councellor in Court.

Gibbs *verſ.* Clark *& al'.*

Mich. 12 *Jac.*
The Defendant ſentenced for impounding the Plaintiff as a Beaſt.

Attorn. *Regis verſ.* Camber.

Trin. 13 *Jac. fol.* 55.
A *Ne exeat Reg.* againſt the Defendant, for that he ſwore he would depart the Kingdom rather than he would Marry.

Young *verſ.* Herlackenden *& al'.*

Paſc. 5 *Jac. fol.* 147.
Divers Defendants charged with Forgery, and publiſhing thereof, two of them who were the procurers of the Deed to be drawn and written, ſentenced to pay a Fine and ſtand in the Pillory; he that drew the Deed, and he that engroſſed it acquitted, and the two Defendants ſentenced are ordered to pay them Coſts.

The Caſe of *Ship-money* was this year brought upon the Stage by Mr. *Hampdens* refuſal to pay the Tax laid upon him (living in *Buckinghamſhire*, an Inland County) towards the finding of a Ship of ſo many Tun at Sea: and this buſineſs coming to be argued before all the Judges of *England* in the *Exchequer Chamber*, *Oliver* St. *John* of *Lincolns* Inn Eſq; of Council with Mr. *Hampden* firſt argued, of which the Author gives the Reader a large Account, himſelf being then preſent, and took the Argument in Characters; yet begs the Readers pardon for any miſtakes, for it is not poſſible for a ſingle Pen to be ſo circumſpect, in mentioning ſo many Authorities of Books and Records, but that ſomething may be miſrecited or omitted, when his hand with continual writing might ſometimes grow feeble, and thereby diſmable him. —— Yet to the beſt of his knowledge he hath not wilfully miſrecited any thing.

Mr.

13 *Caroli.*

Mr. St. *John's* Argument.

May it pleaſe your Lordſhips,

PAſc. 13 *Carol' a Scire fac* iſſued to the Sheriff of *Buckingham*, reciting That whereas ſeveral ſums of mony mentioned in a Schedule to that Writ annexed, by a Writ under the Great Seal of *England*, dated 4 *Auguſt*, 11 *Car.* Ceſſed upon ſeveral Perſons for providing a Ship of War were not paid, and that upon a *Certiorare* dated 9 *Martii*, 13 *Car.* theſe ſums and the ſeveral Perſons upon whom they were aſſeſſed, were certified into the *Chancery*, and from thence by Mittimus dated 5 *Maii* laſt were ſent into the Exchequer, that Proceſs might be thence iſſued againſt theſe Defaulters.

Thereupon the Sheriff is commanded, *quod ſcire faceret*, to thoſe ſeveral Perſons to appear in the Exchequer, *Octob. Trin.* 13 *Car.* to ſhew cauſe why they ſhould not pay thoſe ſums of money aſſeſſed upon them; the Sheriff returned *quod ſcire fecit*, *John Hampden* Eſq; who was aſſeſſed at twenty Shillings, and hath not paid it; Mr. *Hampden* hath appeared and hath demanded *Oyer* of the *Scire fac'* of the Schedule, the Writ dated 4 *Auguſt.*, the *Certiorare*, and the *Mittimus* and of their ſeveral returns, and hath thereupon demurred in Law.

The *Writ dated* 4 *Auguſt.* 11 *Car.* becauſe it is the ground of the iſſuing forth of the *Scire fac'* and ſo by neceſſary conſequence, as that which firſt occaſioned any proceſs againſt him, it will be the ſubject from whence will be fetched all that ſhall be ſaid either for or againſt my Client; I will endeavour by breaking it into parts, more clearly to preſent it to your Lordſhips view.

The thing Commanded is, that this County ſhall provide a Ship of War of 450 Tun, with 180 Men, Guns, Gunpowder, double Tackling, Victuals, and all other things neceſſary, and to bring her to *Portſmouth* by the firſt of *March* following, and from that time to provide her of Victuals, Mariners-wages, and all other neceſſaries for 26 Weeks; for the effecting of this there is power given to aſſeſs each Perſon in the County *Secund. Stat. & facultates*, and to bring theſe Seſſes by diſtreſs, *& quos rebelles invenerint* to impriſon their Perſons.

My Lords, If the Writ had ſtayed here, and gone no further, the Command, though full in words, yet had been void in Law, becauſe as yet it appears not for what end this Ship was to be provided 42 *aſſ. Pl.* a Commiſſion to ſeize mens goods notoriouſly ſuſpected of Fellons before Conviction adjudged void, becauſe therefore the Command without Cauſe ſhewen, and that ſufficient in Law too would be void; in the ſecond place therefore they are there ſet down to be theſe, *pro defenſione Regni, Tuitione maris, ſecuritate ſubditor. & ſalva conductione Naviuum*, both outward and inward, the Sea being infeſted with Pirates, and more Shipping being daily prepared *ad Regnum Gravandum*, theſe are the ends.

In the third place the Legality of it, that every man *ſecundum ſtatum & facultates* ſhould be hereto Seſſed, is thus inforced.

An. 1637.

Firſt, From cuſtom and continued uſe in theſe words, that the Sea *per gentem anglicanam ab volim defendi conſuenit*; and ſecondly, this uſe proved to be from a common ground of equity, in theſe words, *Onus defenſionis quod omnes tangit, per omnes debet ſupportari*, and the rule of equity backt by the Common-Law in theſe words, *prout per legem & conſuetudinem Regni Angliæ fieri conſuevit*: the argument ſtands thus, all have benefit by defence of the Realm, and therefore by the Law the Charge ought to be born by all.

Thence it is further inforced that every man even by his allegiance is bound to contribute to this charge, the Command being *in fide & legeancia quibus nobis tenemini*: of theſe parts the Writs conſiſt, which all being put together, in brief declare the ſcope and end of the iſſuing forth thereof, to be the defence and ſafety of the Kingdom; a thing ſo neceſſary, that it muſt needs be legal, for it is too near and too narrow a conceit of the Wiſdom and Policy of the Law, to think that whilſt the care thereof ſhould be confined only to the preſervation of the general members of the body politique, from the wrongs and preſſures that might be offered from other to the fellow members, that in the mean time it ſhould leave the whole to the violence and will of Enemies, ſo that whilſt each Subject conſidered as a part of the whole hath a known and ſure eſtate in Lands, and real Property in his Goods, not to be impeached by any whatſoever within the Realm; yet conſidered all together, and as they make up the *unum Compoſitum*, they ſhould have in them only *precariam poſſeſſionem*, or Tenancy at Will, in regard of Foreigners.

My Lords, This cannot be, for the Law is ſo careful herein, that even afar off it foreſees and prevents all damages in this kind, and that is the reaſon that an Alien, though a friend, hath not Capacity to purchaſe any Land within the Realm: and if the Law be ſo quick-ſighted, as that to prevent but poſſibilities of danger, it keeps ſuch ſtrangers from having any Land within the Realm which deſire to come by it peaceably, and for valuable conſideration; by this we may eaſily ſee the great care it hath to prevent apparent dangers, which uſually proceed from open force and violence; which further appears by the greatneſs of the puniſhment which the Law inflicts upon Offenders in this kind, which is High-treaſon of all other the greateſt, 13 *Eliz. Dy.* 298. *Story* conſpired beyond Sea with a Foreign State to invade the Realm, and though nothing was attempted yet it is adjudged High-treaſon: and 21 *E.* 3. *fol.* 23. and 45 *E.* 3. 25. a man killed a Captain that was going with twenty men at Arms to the King in his Wars, and adjudged to be High-Treaſon, and ſo by ſome opinions in Print, it is to burn or ſink any of the Kings Ships. By the greatneſs of the puniſhment for breach of the negative part of the Law we might underſtand the peremptorineſs and force of the affirmative part; ſo that, my Lords, in this caſe the queſtion is not *de Re*, for by the Law the ſafety of the Realm is to be provided, for *ſalus Populi Suprema Lex*; neither is the queſtion *de Perſonis*, either in reſpect of the Perſons, who are to bear the charge of it, or of the Perſons whom the Law hath intruſted with the care and power of this Common defence. For the firſt, that is, the perſons that are to bear this Charge, that in the Writ *quod omnes tangit per omnes debet ſupportari*, the reaſons

in

in the Writ are weighty and agreeable to the Rule both of the Common and Civil Law, *Qui ſentit commodum ſentire debet & onus*; ſo that I conceive the burthen lies upon all in reſpect of our *bona naturæ*, our Lives and Perſons be equally as dear to one as to another, in reſpect of our *bona fortunæ*, ſo *ſecundum ſtatutum & facultates*, becauſe the greater the ſtate and means of Livelihood, the greater the benefit by the defence; the Law in this Caſe of defence againſt the Invaſions of living Enemies, being the ſame with that againſt the Invaſions of our Soil and Ground, by the Inundations and out-rages of the Sea and Freſh Water; for by the Law, as appears by the Commiſſions of Sewers, as well before the Statute of 28 *H.* 8. as ſince, to the repairing of a Banck or Cauſey, River, or other Sewer, all are chargeable that have thereby *defenſionem, commodum, vel ſalvationem, qualitercunque*; all that have defence muſt be ſeſſed, the Aſſeſſes muſt be equally diſtributed, and therefore laid upon every Man within the level *pro rata portionis Tenuræ ſuæ, ſeu pro quantitate commune paſturæ vel piſcariæ*, the more Land, Common, or Benefit each Man hath, the greater Benefit: And according to the proportion the Aſſeſs muſt be ſet: So that, my Lords, in the ſecond place the queſtion will not be whether my Client by Law be exempted from the Charge of the defence of the Realm; for with other His Majeſties Subjects he ought to bear the common Burthen, and more or leſs may be thereof laid upon him proportionable to his Eſtate and Means of Livelihood.

13 *Caroli.*

Neither thirdly, is there any queſtion to be made but the Law hath intruſted the Perſon of His Royal Majeſty with the care of this Defence: the Defence and Protection which we have in our Bodies, Lands and Goods againſt any within the Realm, we know it is from him; for all Juriſdiction Legal, both Eccleſiaſtical and Civil, which defends us in them is wholly in His Majeſty; the ſame it is in caſe of Forreign Defence, even by the *Jus Gentium*, as appears in the Text by the Peoples deſiring that they might be like all Nations, by having one that might judge them, and go out before them, and fight their Battles.

That the King (and that legally) calleth the Kingdom *Regnum noſtrum*, and every City and great Town *Civitatem & Villam noſtram, quoad proprietatem*, it cannot be, becauſe that it is in the ſeveral Land-owners; it muſt be ſo therefore principally in this reſpect, *quoad protectionem & defenſionem*: neither hath the Law inveſted the Crown with this height of Sovereignty, only as an *Honorarium* for the greater Splendor of it; but likewiſe as a Duty of the Crown, or *pars Miniſterii* for the good and ſafety of the Realm, which in many of the ancient Commiſſions of the Sewers before the Statute of 23 *H.* 8. is thus expreſſed, That the King *ratione Regiæ Dignitatis & per Juramentum eſt aſtrictus ad providendum Salvationi Regni circumquaq*; So that both in Honour, and by his Oath, he is bound to provide for the ſafety of the Realm, and that *circumquaque*.

My Lords, by the Law the King is *Pater familiæ*, who by the Law of *Oeconomicks* is not only to keep peace at home, but to protect his Wife and Children, and whole Families from injuries from abroad.

An. 1637.

It is his vigilance and watchfulneſs that diſcovers who are our friends and foes, and that after ſuch diſcovery firſt warns us of them, for He only hath power to make War and Peace.

Neither hath the Law only intruſted the care of the defence to His Majeſty, but it hath likewiſe, ſecondly, put the *Armatam poteſtat'* and means of defence wholly in His Hands; for when the Enemy is by Him diſcovered, and declared, it is not in the power of the Subject to order the way and means of defence, either by Sea or by Land, according as they ſhall think fit; for no Man, without Commiſſion or ſpecial Licenſe from His Majeſty, can ſet forth any Ships to Sea for that purpoſe; neither can any Man, without ſuch Commiſſion or Licenſe, unleſs upon ſudden coming of Enemies erect a Fort, Caſtle or Bulwark, though upon his own ground; neither, but upon ſome ſuch emergent cauſe, is it lawful for any Subject, without ſpecial Commiſſion, to arm or draw together any Troops or Companies of Souldiers, or to make any general Collections of Money of any of His Majeſties Subjects, though with their conſent.

Neither in the third place is His Majeſty armed only with this Primitive Prerogative Power of *Generaliſſimo*, and Commander in Chief, that none can advance towards the Enemy until He gives the Signal, nor in other manner than according to His direction; but likewiſe with all other Powers requiſite for the full execution of all things incident to ſo high a Place, as well in times of eminent danger, as of actual War. The Sheriff of each County, who is but His Majeſties Miniſter, he hath the *poſſe Comitatus*; and therefore it muſt needs follow, that the *poſſe Regni* is in Himſelf.

My Lords, not to burn day-light longer, it muſt needs be granted, that in this buſineſs of defence the *Suprema poteſtas* is inherent in His Majeſty, as part of His Crown and Kingly Dignity.

So that as the care and proviſion of the Law of *England* extends in the firſt place to Forreign Defence, and ſecondly lays the burthen upon all, and for ought I have to ſay againſt it, it maketh the quantity of each Mans Eſtate the Rule whereby this burthen is to be equally apportioned upon each perſon; ſo likewiſe hath it in the third place made His Majeſty the ſole Judge of dangers from Forreigners, and when and how the ſame are to be prevented, and to come nearer, hath given him power, by Writ under the Great Seal of *England*, to command the Inhabitants of each County to provide Shipping for the defence of the Kingdom, and may by Law compel the doing thereof.

So that, my Lords, as I ſtill conceive the queſtion will not be *de perſona*, in whom the *Suprema poteſtas* of giving the Authorities or Powers to the Sheriff, which are mentioned in this Writ, doth lie, for that it is in the King; but the queſtion is only *de modo*, by what Medium or Method this Supreme Power, which is in His Majeſty doth infuſe and let out it ſelf into this particular; and whether or no in this Cauſe ſuch of them have been uſed, as have rightly accommodated, and applyed this Power unto this Writ in the intended way of defence for the Law of *England*, for the applying of that Supreme Power which it hath ſetled in His Majeſty to the particular cauſes and occaſions that fall out, hath

ſet

13 *Caroli.*

ſet down Methods and known Rules, which are neceſſary to be obſerved.

In His Majeſty there is a two-fold Power, *voluntas*, or *poteſtas interna*, or *naturalis*; *externa*, or *legalis*, which by all the Judges of *England*, 2 *R.* 3. *fo.* 11. is expreſſed *per voluntatem Regis in Camera*, and *voluntatem Regis per Legem.*

My Lords, the Forms and Rules of Law are not obſerved; this Supreme Power not working *per Media*, it remains ſtill in Himſelf as *voluntas Regis interna*, and operates not to the good and relief of Subject that ſtandeth in need.

To inſtance,

His Majeſty is the Fountain of Bounty; but a Grant of Lands without Letters Patents transfers no Eſtate out of the King to the Patentee, nor by Letters Patents, but by ſuch words as the Law hath preſcribed.

His Majeſty is the Fountain of Juſtice; and though all Juſtice which is done within the Realm flows from this Fountain, yet it muſt run in certain and known Channels: an Aſſiſe in the *Kings-Bench*, or an Appeal of Death in the *Common-Pleas*, are *Coram non Judice*, though the Writ be His Majeſties Command; and ſo of the ſeveral Juriſdictions of each Court. The Juſtice whereby all Felons and Traitors are put to death, proceeds from His Majeſty; but if a Writ of Execution of a Traytor or Felon be awarded by His Majeſty, without Appeal or Indictment preceding, an Appeal of Death will lye by the Heir againſt the Executioner, if the Proceſs be Legal, and in a right Court; yet I conceive, that His Majeſty alone, without aſſiſtance of the Judges of the Court, cannot give Judgment: I know that King *John*, *H.* 3. and other Kings have ſitten in the *Kings-Bench*, and in the *Exchequer*; but for ought appears they were aſſiſted by their Judges. This I ground upon the Book-Caſe of 2 *R.* 3. *fo.* 10, *&* 11.

Where the Party is to make Fine and Ranſome at the Kings Will and Pleaſure, this Fine, by the opinion of the Judges of *England*, muſt be ſet by the Judges before whom the Party was convicted, and cannot be ſet by the King: the words of the Book are thus; *In terminis, & non per Regem per ſe in Camera ſua nec aliter coram ſe niſi per Juſtitiarios ſuos; & hæc eſt voluntas Regis, ſcilicet per Juſtitiarios ſuos & per Legem ſuam* to do it.

And as without the aſſiſtance of His Judges, who are His ſetled Councel at Law, His Majeſty applies not the Law and Juſtice in many Caſes unto His Subjects; ſo likewiſe in other Caſes: neither is this ſufficient to do it without the aſſiſtance of His great Council in Parliament; if an erroneous Judgment was given before the Statute of 27 *Eliz.* in the *Kings-Bench*, the King could not relieve His grieved Subjects any way but by a Writ of Error in Parliament; neither can He out of Parliament alter the old Laws, nor make new, or make any Naturalizations or Legitimations, nor do ſome other things; and yet is the Parliament His Majeſties Court too, as well as other His Courts of Juſtice: It's His Majeſty that gives Life and Being to that, for He only Summons, Continues, and Diſſolves it, and He by His *Le volt* enlivens all the Actions of it; and after the diſſolution of it, by ſupporting His Courts of Juſtice, He keeps them ſtill alive, by putting them in execution: And although

An. 1637. though in the Writ of *Waſt.* and ſome other Writs, it is called *Commune Concilium Regni*, in reſpect that the whole Kingdom is repreſentatively there; and ſecondly, that the whole Kingdom have acceſs thither in all things that concern them, other Courts affording relief but in ſpecial Cauſes: And thirdly, in reſpect that the whole Kingdom is intereſted in, and receive benefit by the Laws and things there paſſed; yet it is *Concilium Regni* no otherwiſe than the Common Law is *Lex Terræ*, that is *per Modum Regis* whoſe it is; if I may ſo term it in a great part, even in point of Intereſt, as He is the Head of the Common-Wealth, and whoſe it is wholly in truſt for the good of the whole body of the Realm; for He alone is truſted with the execution of it. The Parliament is the Kings Court, and therefore in the Summons the King calls it *Parliamentum noſtrum*; ſo the Returns of the Knights and Burgeſſes, *Quod ſint ad Parliamentum Domini Regis*, *Fleta lib.* 2. *Cap.* 2. *Habet Rex Curiam ſuam in Concilio ſuo in Parliamentis ſuis*; and therefore the Pleadings there which anciently were uſual to begin for the moſt part *Queritur Domino Regi*, Petitions by private Perſons, *Supplicavit Domino Regi*; though for relief againſt others, Inquiſitions and *Venire facias* retornable there ſometimes *coram Domino Rege in Parliamento ſuo*, and ſometimes *coram Rege & Concilio ſuo*, as appears by infinite Preſidents in the Parliament Pleas of *E.* 1. and *E.* 2. time, both in the Tower, and many Caſes adjourned into the *Kings-Bench*.

The Patents paſt by authority of Parliament, and likewiſe the Acts of Parliament had anciently ſo much of the Kings Name and Stile in them, that, as it appears in the Princes Caſe in the 8*th* Report, it was a hard matter otherwiſe than by Circumſtances to know whether they had any thing of the Parliament in them or not; and from thoſe times, even until now, the alteration is nothing in ſubſtance, for the Acts for the moſt part are thus; It is Enacted by Our Sovereign Lord the King, with the Aſſent of the Lords Spiritual and Temporal, and Commons; the King both then and ſtill is the *Pars Agens*, the reſt are but *Conſentientes*. My Lords, to apply all to the Caſe in queſtion by the Caſes before cited, it appears that what was done in Parliament by the Law-Phraſe and Dialect, is ſaid to be done by the King; for as the Civilians ſay of the Senate, that it is *Pars Corporis Cæſaris*, ſo we of the Parliament, that it is *Pars Corporis Regis*; the Maxime of *Juſtinian*, *Quod principi placet Legis vim habet*. It is agreed by Mr. *Bracton*, and all the Civilians; and yet both he and many of them ſay, That thoſe muſt paſs the Senate though done in the Senate, yet they be *Placita Principis*; ſo is it, although when we ſpeak *ut Vulgus*, we ſay Fines are ſaid to be ſet, and other things to be done by the Kings Court, yet the Law ſaith, that they be done and ſet by the King; by the ſame reaſon therefore, though when we ſpeak *ut Vulgus* we ſay ſuch a thing is done by the Parliament, yet in the Legal Account theſe are done by the King, the Medium or way of doing of them with aſſiſtance or conſent of His great Council in Parliament.

The ſecond thing which I obſerve is this, by the Caſes before cited it appears, that without the aſſiſtance in Parliament, His Majeſty cannot in many Caſes communicate either His Juſtice or Power unto His Subjects.

Hence

13 *Caroli.*

Hence thirdly it neceſſarily follows, as I conceive, that the Kingly Dignity doth moſt operate and manifeſt it ſelf there, which was the opinion of all the Judges of *England* declared in a Parliament 34 *H.* 8. as appears by *Crompton Juriſd. fol.* 10. who by the Kings Commandment meeting together about Point of Priviledge of Parliament, the King afterwards in declaring their opinion doth it in part of the Caſe in theſe words: 'Further We be informed by 'Our Judges, that we at no time ſtand ſo highly in Our Eſtate-'Royal as in time of Parliament, wherein We as Head, and you as 'Members, are conjoyned and knit together into one Body-Politick; which His Declaration of it ſhews likewiſe that it was the Kings own Opinion, That He at no time ſtood ſo highly in His Eſtate-Royal, as in time of Parliament: It appears not by the Record, that this Writ which giveth power to ſell and alter the property of the Defendants Goods, iſſued from His Majeſty ſitting in this His Eſtate-Royal in Parliament; and therefore cannot be intended by your Lordſhips and the Court ſo to do; if therefore it hath iſſued from His Majeſty in the *Chancery*, or otherwiſe than in Parliament, where he ſtands in that height of Sovereignty and perfection, that He hath not ſo much as a *Poſſe Nocere*; the queſtion is, whether it be erroneouſly iſſued yea or no? My Lords, I have now put the Caſe, which although in this particular Caſe it concerns the Defendant only, yet in conſequence, as that appears, it concerns both His Majeſty and the whole State, and that in matters of the higheſt nature poſſible: His Majeſty is concerned in the way and manner of execution of the higheſt and greateſt truſt which the Law hath repoſed in Him, the ſafety and the preſervation of the Kingdom; the Subject is concerned in that wherein he is moſt tender, in the property of what he hath.

My Lords, the greatneſs and weight of the Caſe puts me into this *Dilemma*, not to argue it were to deny that full Submiſſion to the command of ſome of your Lordſhips as is fitting; neither ſhould I do my Clyent that ſervice which he expects: If I proceed, the caſe is too weghty and too great for me to argue; but I know the ſafeſt way is obedience, and that the Court cannot expect much from me. Having therefore already put the Caſe, I will go on in the next place to ſtate it, and afterwards to argue it; the Queſtion being concerning the validity of the Command in the Writs, which extends ſo far as to the altering of the property of the Subjects Goods, without their conſent; and yet this being for a thing ſo neceſſary as the defence of the Kingdom both at Land and Sea, for the ends of the iſſuing forth of the Writ, as by that appears, are *pro defenſione Regni, tuitione Maris, Securitat' ſubditor' ſalva Conductione Navium* both outward and inward. In the ſtating of this great Queſtion I will in the firſt place endeavour to preſent your Lordſhips theſe known and undoubted ways and means, whereby the Law hath provided for the defence of the Realm both at Land and Sea without the way in the Writ; the firſt whereof is by Tenures of Land: The Services which grow due hereby are of two ſorts.

Services in kind, which tend immediately to Action in times of War; ſome whereof are for Land-Service, and ſome for Sea-Service.

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The firſt ſuch as ſupply His Majeſty with Money for that purpoſe.

The ſecond way is thoſe many Prerogatives which the Law hath ſetled in the Crown, and made peculiar unto it for the defence of the Kingdom in general.

The third is the particular ſupplies of Money for the defence of the Sea alone in time of danger, both ordinary and extraordinary, the thing principally intended in the Writ.

Theſe, my Lords, will be the materials whereupon I ſhall afterwards ſtate the Queſtion.

In that of Tenures I ſhall begin with the Services in kind, and which tend immediately to Action in time of War.

The Kings of this Realm, as they are the Head of the Common-Wealth in general, ſo are they the Head and Root from whence all Tenures ſpring; for, as our Books agree, all the Land within the Realm is either held mediately or immediately of the Crown: as therefore the Law hath appropriated the defence of the Kingdom to the Kings thereof, ſo hath it, as one of the principal ways for the effecting thereof, intruſted them with the reſervations of ſuch Services as might ſerve for that purpoſe.

Amongſt which, intending firſt to ſpeak of Land-Service, I will begin with the Tenures by Knights-Service, every Man that holds by this Service from a whole Knights-Fee to any part of it, ought to find a Man competently armed for the Wars: Neither doth the finding of Arms ſatisfie this Tenure; for he that holds by a whole Knights Fee, ought to be forty days in the Service, and he that holds by the Moiety of a Knights Fee, twenty days, and ſo in proportion.

By the Books of the Knights Fee of *Henry* 2. *E.* 1. and *H.* 6. time in the *Exchequer*, it appears, that there were many Thouſand Knights Fees held of the Crown; and in the *Red Book* it is ſaid, That it was in *ore omnium*: That in the Conquerors time there were 30000 held of Him, ſome ſince have computed them to 60002, which perhaps may be with addition of thoſe that are held of common Perſons, which are not of thoſe upon which I ſhall inſiſt.

But it may be objected, that in reſpect that theſe Services are reſerved by the King, that therefore they were not Inſtituted only for the defence of the Realm, but may be exacted for Forreign Wars, or other-where for His Majeſties peculiar Service, as He ſhall think fit, which may be inforced both from the name which our old Books and Deeds ſtile this Service by, when due to the Crown, that is *Forinſecum Servitium*: And ſecondly from the uſe thereof; it having been performed in *Normandy*, *Gaſcoigne*, *Tholouſe*, and *Ireland*, as appears by the *Red Book*, and many Caſes put together in the Inſtitutes in the Chapter of *Eſcuage*.

To the firſt Objection of the Name, the Anſwer is clear; for anciently when thoſe that held immediately of the Crown by this Service, did enfeoff others of the Land ſo held, deſiring to free themſelves of the burthen of this Service, beſides the Services which they reſerved to themſelves; they likewiſe commonly in the Conveyance made proviſion for their own Acquittal againſt the King, and the Feoffee took the whole Burthen therefore upon himſelf:

himſelf: And therefore in the Book of Knights Fees of *H.* 2. time in ſo many Hundred Certificates of thoſe that held immediately of the King, *William London* of *Wiltſhire* certifies thus: *Quod nullum Militem habeo feoffatum, ſed debeo defendere Feodum meum per Servitium Corporis mei*; of this nature are three or four others: All the reſt after certifies by how many Knights Fees he holds, then likewiſe he certifies that *defendit*, &c. againſt the King, by ſuch and ſuch *Milites Feoffatos*; and in theſe Deeds of Feoffment, after the reſervation to the Feoffer, was this Clauſe, *& faciend' inde*, ſometimes *forinſecum Servitium*, ſometimes *Regale Servitium*. *Bracton lib.* 2. *fo.* 36, 37. and *Fleta lib.* 3. *Cap.* 14. ſay that it is called *Regale Servitium, quia eſt Servitium Domini Regis*; and by them *Regale Servitium*, and *Servitium Domini Regis*, are all but one and the ſame thing; to that therefore I ſhall need give no further anſwer. 13 *Caroli*

By the ſame Authors it is called *Forinſecum Servitium, quia capitur foris, ſive extra Servitium, quod fit Domino Capitali*; and that is the meaning of the word, and that is called *Forinſecum*, in regard that the Service is to be done *foris*, that is, out of the Kingdom, is cleared to your Lordſhips by theſe Caſes, *P.* 49. *H.* 3. *Com'* *P.* 31. *E.* 1. *Ro.* 32. *Dor. Com' Hill'* 33 *E.* 1. *Ro.* 52. *Dor. ſo. Cornage*, which we know is to wind a Horn within the Realm; in all thoſe three Caſes is called *Servitium Forinſecum Domini Regis Cornagii*; and *Caſtle-Gard* within the County of *Northumberland*, at the Caſtle of *Bamburgh* called *Forinſecum Servitium Domini Regis*.

To the ſecond part of this Objection, that this Service hath been often performed beyond Sea.

For the preſent I ſhall give anſwer thereunto but in part, by telling your Lordſhips, without making proof of it as yet, that *Eſcuage*, which is all the penalty that lies upon the Tenant for his default, cannot be aſſeſſed but in Parliament; which if it be ſo proved that the King cannot command this Service otherwiſe than for the good and defence of the Realm, in regard that if it be otherwiſe, no *Eſcuage* can be aſſeſſed without conſent in Parliament, which likewiſe by intendment according to the good that the Kingdom is likely to receive by the Service, will proportionably leſſen or encreaſe the *Eſcuage*. My Lords, that this Service was inſtituted for the defence of the Realm, appears by the care which the Law hath always taken for the encreaſe and preſervation of theſe Services; ſo that if the Lord purchaſe part of the Land, yet the whole Service remains; which being entire, and to be done by the Body of a Man, in that of being a Steward or Bailiff, or other private Service, makes an extinguiſhment of the whole.

The Authorities in point are many in this the Statute of *Mortmain*, 7 *E.* 1. They miſchief by conveying Land to Houſes of Religion, is there expreſſed to be *quod Servitia quæ ex hujuſmodi feodis debentur, & quæ ad defenſionem Regni ab initio proviſa fuerunt, indebite ſubtrahuntur*; and beſides the Declaration, that they are for defence of the Realm, that Statute likewiſe provides for the increaſe of them; for if the Lord enter not within the year and day after the Feoffment, the King is to enter; and as the words of the Statute are,

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are, *Alios inde Feoffavimus per certa Servitia nobis inde ad defenſionem Regni noſtri facienda*, the words are obſervable *per Servitia nobis inde facienda*; for though the Service be to be done to the King, yet it muſt be ſo done to the King as it be *ad defenſionem Regni.*

This explains the Charter of *H.* 1. Enrolled in the *Red Book* in the *Chequer*, and cited in *Matthew Paris*, in the firſt Leaſe of *H.* 1. Reign, where the King frees Knights-Service Land from all Geldes and Taxes, that being eaſed of this Burthen, *apti & parati ſint ad Servitium meum, & ad defenſionem Regni mei:* In the *Black Book* in the *Chequer fo.* 3. *Scutage* defined, *ut imminente in Regnum hoſtium machinatione*, it is then due: So *Bracton* in his ſecond Book *fo.* 36, 37.

That they are ſo *propter exercitum, & patriæ tuitionem*, and to be performed *certis temporibus cum caſus & neceſſitas evenerit*, *Britton fo.* 162. 6. *les Fees de Chartre fuerunt purveus al defenſe de noſtre Realme.*

The Books are expreſs 35 *H.* 6. 41. 8 *R fo.* 105. *Talbots* Caſe 6 Report *fo.* 2. *Burvertons* Caſe.

Inſt. pl. 103. *Co.* Preface to the ninth Report.

For the further clearing of what is ſaid already, and what I am to add, it is obſervable, that thoſe Services are not created *ex proviſione hominis*, but *ex proviſione Legis*; for as it is in 33 *H.* 6, 7. & 6 Report *fo.* 7. *Wheelers* Caſe, and in the 9*th* Report *fo.* 123. *Lawes* Caſe; if the King grants Lands without reſerving any Service at all, or *abſq; aliquo inde reddendo*, the Patentee ſhall hold the Land by Knights-Service in *Capite*; the Books of 24 *E.* 3. 65. *Stamf. Prerog. fo.* 10. *Inſtit. pl.* 73. ſaid, That the firſt Kings of this Realm had all the Lands of it in their own Hands; which appears likewiſe by this, that all the Land within the Kingdom is held mediately or immediately of the Crown; in the transferring of thoſe Lands to the ſeveral Inhabitants, we ſee by the Caſes before cited, that the care and proviſion of Law was, that all ſhould by Tenure of the Crown be made liable to the defence of the Kingdom: I ſhall therefore ſhew briefly how the Kings of this Realm have executed the truſt for the defence both at Land and Sea.

And firſt a little further to proſecute the Land-Service; becauſe the Tenures by Knights-Service tye the Tenant only to forty days Service, and that to the defence of the Realm only in the general; they therefore reſerved divers other Tenures for particular, and certain Services as grand *Serjeances*; ſome whereof, as in the *Inſtitutes fo.* 106. is obſerved, were for Service of Honour in time of Peace, and ſome for Military Service; of which laſt ſort, as appears in the Book of *Serjeances* in the *Chequer*, and many Rolls of them in the Tally-Office; ſome whereof were to carry the Kings Banner, ſome to ſummon the Tenants *ad exercitum*, ſome to be of the Vauntgard, ſome of the Rear, ſome to ſerve in *Wales*, ſome in *Scotland*, ſome *infra quatuor Maria*, ſome *infra quatuor portus Angliæ*; of theſe are Services of all ſorts neceſſary for an Army, and in reſpect of the multitude of theſe Military *Serjeances* over the others as forgetting them, *Britton. fo.* 164. in his definition of grand *Serjeancy* ſaith, That they are *pur defence del' Relme*; & *Fleta lib.* 3. *Cap.* 16. *Magnæ Serjanciæ Regem tantum reſpiciunt & patriæ defenſionem*;

13 *Caroli.*

nem. Beſides, the grand Serjances of this nature likewiſe are the Tenures by Cornage to give warning of the Enemies coming into the Kingdom, and the Tenures by *Caſtle-Guard*; theſe by *Lit.* 111. were to defend the Caſtles when the Enemy enters the Realm, which in ancient times were Forts and Bulwarks of the Realm; whereof, as Mr. *Cambden Pag.* 815. obſerves, there were 1115 in *H.* 2*d's* time, whereof a great part, and eſpecially ſuch as were upon the Sea-Coaſts, and Frontiers of *Scotland* and *Wales*, the Places of greateſt danger, were the Kings; and beſides thoſe Grand Serjeances, which were to be performed by the Bodies of Men, there are Petty Serjeances for the finding of Armor of all ſorts for the Wars.

My Lords, that the former Kings did execute this power of Tenures for the defence of the Realm, according to the Truſt by the Law repoſed in them, appears further in this, that in the Places of greateſt danger there were ever moſt of them.

All along the Sea-Coaſts of *Kent* and *Suſſex*, neareſt of all others to *France*, are the five Ports, who beſides their Sea-Service have all Juriſdiction within themſelves, that the Inhabitants for weakning of thoſe Ports might not be compelled to travel out of them, for any matters of Juſtice, and divers other Priviledges, both to invite the People to live there, and to incourage them to the defence of thoſe Places; and *Dover*-Caſtle, the Key of the Kingdom, as of greateſt Conſequence, ſo hath it 200 Tenures by Caſtle Guard, wanting very few, beſides divers Tenures for repairing of the Caſtle; which appears by the Record called the Quire of *Dover*, remaining in the *Chequer*; which that it is of Record, and determines the Services of the five Ports, as Domeſday doth the Tenures of Ancient Demeſne, appears *Int. Coram* 27 *E.* 1. *Rot.* 35. and by another Record added to that Quire of *Dover*, 20 *E.* 4. it likewiſe appears, that in times of War the King is to maintain in that Caſtle 1000 Foot and 100 Horſe for the defence of it.

Next to come to the Borders of *Scotland*, there we find the Franchiſe of the Biſhoprick of *Durham* inſtituted likewiſe for the defence of thoſe parts, which *William* the Conqueror, as *Malmesbury fo.* 157. obſerves, firſt made a County Palat. and *Walker* Biſhop thereof *ducem pariter & Epiſcopum ut refrænaret rebellionem gentes gladio & reformaret mores eloquio.*

And beſides this in all the Counties of *Cumberland*, *Northumberland*, and *Weſtmoreland*, are more Tenures for the defence of the Realm than any of the Inland Counties, and thoſe likewiſe moſt proper for Borders *Coram pat.* 31. *E.* 1. *Ro.* 32. *Dor.* It's there found by Inquiſition returned into the Chequer that every Lord of a Town within the County of *Northumberland* held by Cornage; when the Scots entred the Realm Mr. *Cambden* in his *Brit. Pag.* 794. and 799. mentioning the great number of Petty Baronies and Caſtles all along thoſe Marches, which *Britton fol* 87. and inſtitutes *fol.* 73. ſay were inſtituted for the defence of the Realm, obſerves herein likewiſe the Policy of the Law, and likewiſe the many Serjeances there in the advancing of the Kings Army to be of the Vauntguard, and in the retreat, in the Rear, thoſe People beſt knowing the ways and paſſages of the Country.

Whence,

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Whence, my Lords, when we come to the Marches of *Wales*, there we find another County Palat. I mean that of *Cheſter* and the Earl of *Cheſter* and his Barons to oppoſe the *Welch* Invaſions.

Upon thoſe Marches, beſides the like ſervices, as upon the Borders of *Scotland*, there were likewiſe many Lords Marchers of ſeveral Baronies, who had adminiſtration of all Juſtice within themſelves, *ſecundum Legem Marchiæ*; and for their ſervices to be done againſt the *Welch* they had two ſpecial priviledges, that is the third peny of all Spoiles in War as was adjudged in Parliament, 20 *E.* 1. *B. R. Ro.* 123. in that great caſe between the Earls of *Gloceſter* and *Hereford*, and in the Parliament Book 20 *E.* 1.

And ſecondly, all the Priſoners that they took in the Wars *per Conſuetudinem Marchiæ* belonged to the takers of them.

Trin. 25 *E.* 1. *Ro.* 28. *Coram Roger de Knownell in partibus Mountgomeriæ, in guerra Walliæ* 23 *E.* 1. had taken three *Welch* Priſoners; and becauſe by the Kings Command they were releaſed of their Impriſonment, it's there adjudged that the King ſhould pay him forty pounds in recompence, and ſo it was adjudged *Coram Hill.* 25. *E.* 1. *Ro.* 11. *Dor.*

My Lords, His Majeſty is in the actual poſſeſſion of theſe military ſervices, by taking the profits of Wards, Marriages, Releaſes, Licenſes, and forfeitures for alienation, and *Primer Seiſin* as fruits of them.

That the profits of Wards and Marriages are to be ſpent in Wars for the defence of the Realm as well as for bringing up the Ward, the Books are 35 *H.* 6. 41. *Britton* 162.

That the Lords receive the profits becauſe he is not able to do the ſervice if the Kings Ward was within age when the Tenants were ſummoned *ad exercitum*, he paid no *eſcuage*, as is adjudged *M.* 20. *E.* 1. *R.* 9 *&* 20 *Co'ia & M.* 28. *E.* 1. *Bra. irrott.* ſo it is for Releifs and Licenſes and forfeitures of Alienation of the Kings Tenant, without his conſent might be altered, and for *primer ſeiſin* the King was to receive the profits till the Tenant by his homage had aſſured the King of his ſervice, the Summons always commanding him to be at the place of the Randevows *in fide & homagio quibus nobis tenemini*, all theſe being but fruits that fall from theſe Military Services.

My Lords, Now to come to Sea-ſervice, the care of the execution of this truſt by Tenures was extended likewiſe to the defence of the Sea.

The Town of *Lewes* in *Suſſex* holds by this Service *quod ſi Rex ad Mare Cuſtodiendum ſuos mittere voluiſſet*, they paid ſo much money, *Et hos habebant qui in manibus Arma Cuſtodiebant*, this, my Lords, is in *Domeſday*: in *Colcheſter* every Houſe to pay ſix-pence *per Annum, ad Victum foldar' Regis ad expeditionem terræ vel Maris Warwick: Si Rex per Mare contra Hoſtes ſuos ibat*, the Town was to find four Botſwains; *Salisbury* then to pay ſo much mony *ad Paſcendum Buſtecorlos Domini Regis*, which as *Florentius* explains the word be *Miniſtros Nauticos*; *Gloceſter* and others ſuch a weight of Iron, *ad Claves Navium Regis*, others to find Horſes to carry Armor and Weapons to the Ships.

My

13 *Caroli.*

My Lords, Of this Nature are many in that Book, which particularly to mention to gain time I will omit.

That the Tenures of this kind after the Conquerors time continued in uſe, and were well-known appears by the Regiſter *fol.* 2. where, amongſt other Services, is this of ſhipping alſo inſtanced in theſe words, *Quod clamat tenere de nobis per liber' Servit' inveniendi nobis quinq; Naves pro omni Servitio.* In the *Iter* Roll of *Eſſex*, 13 *E.* 1. *Ro.* 7. it's preſented that the Town of *Malden tenet per Serjantiam inveniendi unam Navem, quandocunque Rex neceſſe habuerit perſonaliter ire, vel mittere propter negotia Regni,* and from the time that they came to the place of Rendezvous to ſtay in the Service forty days, *ſumptibus propriis*; and being there preſented that they made default at the *Welch* war, they plead they had no Summons.

So, my Lords, In the Books of *Serjanties* of *E.* 1. *Tyme* in *Kent*, the Town of *Killingborn* is to find one Ship; and in the County of *Berks*, *Fulk Caudry* holds the Mannor of *Padworth per Serjantiam inveniendi ſervientem*, to perform Sea-ſervice, *Bra. p. octavo E.* 2. *Rot.* 40. *Will. Dyer* in the County of *Suſſex* to find a certain proportion of Cordage.

Iter Cantiæ 21 *E.* 1. *Rot.* 46. *Solomon de Campis* holds *per Serjantiam tenendi Caput Dom. Regis* when he is at Sea, *ſive neceſſe fuerit*, and ſo *Rot.* 30. another in the ſame *Iter Roll.*

The five Ports and their Members are to find fifty ſeven Ships, and in every Ship twenty men, and a Maſter, *Armatos & bene ariatos*; from the time they come to the Randezvouz, they are to continue in the Service 15 days at their own Charge, and afterwards as long as the King pleaſeth; but after the 15 days the King is to pay the Maſter and Conſtable 6 *d.* a day, and the reſt 3 *d.* a day for their Wages: This Service appears by the Records of the Quier of *Dover* before-mentioned, and the Patent-Roll of 7 *H.* 7. *pars.*

Both which Records imply, that this Service of theirs cannot be exacted otherwiſe than for the defence of the Sea; for it cannot be demanded above once in a year, nor then neither, *niſi neceſſe fuerit, Parliament' Pet'* 1 *E.* 3. *Rot.* 4. The Barons of the Ports in conſideration of their Sea-ſervice, pray a confirmation of their liberties *pro Salvatione dict. Navigii & Regni*; commonly when the Land-ſervice was ſummoned, theſe likewiſe were ſummoned to the ſame Service at Sea, as appears in the cloſe Rolls, 28 *E.* 1. *M.* 15. 31 *E.* 1. and 34 *E.* 1. *M.* 15, 16. in all which years the Land-ſervice was ſummoned for *Scotland*, and the Summons both for the one and the other run in the ſame words, commanding them to be at the place *cum toto Servitio veſtro quod nobis debetis*, which ſhews it to be a Service by Tenure.

That theſe Services of theirs are for the defence of the Realm; and likewiſe that there are many of like nature beſides theſe, which by a ſuperficial reading of two or three *Iter Rolls* I have cited, appears by the Parliament Roll of 13 *E.* 1. *pars* 1. *Numero* 11. where is declared in theſe words, That the five Ports, and other great Towns and Havens, are infranchiſed *pur eſtre gard & mure inter nous & altiens*; if it fall out that they ſhall endeavour *noſtre terr' enter, & aſſay terr', & ſunt tenus a ceo faire.* My Lords, a fuller Declaration than this there cannot be, That both the Ports, and many of the

An. 1637. the Havens and Sea-Towns are bound to the Service of Shipping for the extraordinary defence of the Realm, as well as the ordinary.

I have now done with the Services in kind; and becauſe theſe which immediately tend to Action alone were not ſufficient to defend the Realm, and this in the frame and firſt conſtitution of the Common-wealth being foreſeen, and that the Land, or *fundus Regni*, the moſt viſible and conſtant ſupplier of our wants, was beſt able to ſupply this likewiſe; therefore beſides them there were divers other Tenures created for that purpoſe. Thoſe which next I am to ſpeak of are ſuch as ſupply His Majeſty with Money for that purpoſe.

In the *Black Book* in the *Chequer, lib.* 1. *Cap.* 7. it's ſaid, that in *Primitivo Regni ſtatu ad ſtipendia & donativa Militum, & alia neceſſaria ex Caſtellis*, and other Lands, *in quibus Agricultura non exercebatur pecunia numerata ſucceſſebat*; it might from hence be colorably inferred, that in reſpect, *ex proviſione Legis* upon the Kings paſſing of Lands, a Tenure for Knights-Service for the defence of the Realm was to be reſerved, that in Caſe upon ſuch Grants Rents only without any ſuch Tenure were reſerved, that yet this Money ſhould be imployed for Souldiers Wages, or other neceſſary Affairs of the Common-Wealth, *ad Stipendia Militum, & alia neceſſaria*: But not to preſs this further;

It's plain, that all Men within the Kingdom were not equally inheritable, either to the Freedom of Body, or propriety of Lands or Goods, but that there were three degrees and ranks each differing from other in all theſe; firſt, Villanies; 2. Free-holders, either by Knight-Service or Free Soccage; 3. Tenants of Antient Demeſne, and that held by Burgage within Cities and Burrough-Towns.

Firſt, for the Villain, we know that as to his Lord he had Freedom in neither; in reſpect of his Body he could not *ire quo voluit*, but the Lord at his will might impriſon him; in reſpect of his Lands and his Goods, he might tax him *de haught & de baſſe*.

2. The Free-holders, the greateſt part of the Realm always had an abſolute Freedom in both.

3. The third, and that is the Tenants in Ancient Demeſne, and Burgers, they had an abſolute Freedom in their Perſons, but qualified in the other of propriety, not taxable at will, or as Villains, but for the defence, and other neceſſary affairs of the Realm they might be taxed without conſent in Parliament.

My Lords, that theſe had a divided eſtate from other free Tenants, is clear: and firſt for Tenants in Ancient Demeſne, if it be queſtioned whether ſuch Land be Ancient Demeſne yea or not, the iſſue is in theſe words, whether it be Ancient Demeſne or Frank-Fee: By this it appeareth they have not a frank and free Eſtate as the others have, as all ous Books agree; they have no Vote in Parliament, for they have no Voice in election of Knights, nor pay to the expences of the Knights that ſerve in Parliament, nor Subſides granted in Parliament. *N. B.* 79. and 14. it is often diſputed in our Books, whether Acts of Parliament extend to them, unleſs they be ſpecially named; neither can they ſue at Common Law for any thing that concerns the Free-hold, but only by a Writ of Right cloſe within themſelves; and

and therefore *Bracton*, *fol.* 209. calls them *Villanos privilegiatos.*

The ſame it is of Burgeſſes within Cities and Burroughs, and therefore the Statute of *Merton* makes it a diſparagement for the Lord to Marry his *Warde Villanis, & aliis ſicut Burgenſibus. N. B.* 7. and other Books no Aſſiſes will lie for ſuch Lands, but they are impleadable without Original Writ by a Bill of freſh force; and as a Chattel they may deviſe their Land, by the Statute 1 *E.* 2. *de Militibus* for ſuch Land; and for Ancient Demeſne no Man is compellable to take the Order of Knighthood. Much more might be brought in proof of this which I omit.

My Lords, all our Books agree, that the Tenants in Ancient Demeſne were to Plow and Manure the Kings Lands, being His Demeſnes; in a Manuſcript that I have ſeen the Author ſaith, That he hath an ancient Manuſcript which ſaith, that the Corn, and other Victuals ariſing hereby, was to ſtore the Kings Gariſons, and Caſtles; and conſidering the number of thoſe Mannors, there being above a Thouſand of them in the Kings Hand at the Conqueſt, it appears by Domeſday, and that thoſe Mannors for the moſt part are great, and that the greateſt part of the Soccage Tenures till *H.* 2's time, as appears by the *Black Book lib.* 1. *Cap.* 23. were to find Victuals of all ſorts in kind for the Proviſion of the Kings Houſe, and were in his time turned into Rents.

Although this may ſeem probable, yet becauſe I have not ſeen the Manuſcript, I'le inſiſt no more upon it.

That for which theſe and the Tenures of Burgage in the Kings Cities and Burroughs, were mentioned in the raiſing of Money for the neceſſary Affairs of the State, that theſe were anciently talliable without their conſent in Parliament, is ſo plain and frequent in the *Chequer* Rolls, the *Parliament* Rolls, and the *Patent* Rolls, as that I intend to cite nothing in proof thereof; It will be admitted by them that are to argue of the other ſide: That which I ſhall endeavour to prove is, that theſe were not talliable at the Kings Will and Pleaſure, but only for the defence, and other neceſſities of State. *N. B. fo.* 15. 49 *E.* 3. 22. they be not talliable *de haut & baſſe*, as Villains are; and therefore *Bracton fo.* 209. calls them *Villanos Privilegiatos lib. Parliament. fo.* 112. *taliare & rationabile auxilium dare pro neceſſitate. N. B.* 14 *E.* They are taxable *pro grand Caſe*, *Rot. Parliament.* 6 *E.* 3. Commiſſions to tax Cities and Burroughs, and Ancient Demeſnes upon Petitions of the Commons revoked, and Writs in due form to be ſet, and for the time to come the King ſhall not aſſeſs *tallage forſq*; in ſuch manner *come a d'eſtre fait en temps de ſes Anceſtors, & come il devera per reaſon*: The occaſion not requiring it, I ſhall ſay nothing of it when theſe Talliages are diſuſed.

My Lords, I have now done with the Tenures, the firſt way whereby the Law hath provided for the ſafety of the Realm, which of themſelves not enabling the King entruſted therewith all ſufficiently to do it; the Law therefore, beſides the Honours, Mannors, Caſtles, and other conſtant Revenues of the Crown, for the ſupportation of the ordinary Charges thereof, hath appointed unto it divers Prerogatives for the extraordinary, and for this of the defence of the Realm, as one of the chiefeſt of them: theſe Prero-

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gatives they have an influence into the Eſtates of all the Subjects in the Realm, and are ſo many, that to gain time I will omit to mention any of them; that which I ſhall inſiſt upon, will be to prove, that the things coming to the Crown by this Prerogative way, are to be imployed for the defence, and other publick Affairs of the Realm. In His Majeſty there is a double Capacity, Natural and Politick; all His Prerogatives are *Jure Coronæ*, and of all ſuch things He is ſeiſed *Jure Coronæ*; and therefore, as in other Corporations, ſuch things are *patrimonia & bona publica*, to be imployed for the common good; ſo likewiſe by the ſame reaſon here, the reaſon why the King hath Treaſure-trove, and Gold and Silver-Mines in the Earth, in the Caſe of Mines is declared to be, becauſe the King is hereby to defend the Kingdom; and in Inſtitutes in the Title of Soccage, *fo.* 28, 131. the reaſon of many of the reſt, *quia Theſaurus Regis eſt fundamentum belli, & firmamentum pacis.* This I conceive to be the reaſon, that by the Stat. of 14 *E.* 3. *Cap.* 1. Eſcheats, Wardſhips, Cuſtoms, and Profits ariſing of the Realm of *England*, ſhould be declared to be ſpent for the ſafe-guard of the Realm, more than the Profits of the Kings Mannors and Lands, and of the difference made in the *Co'ia M.* 3. *R.* 2. *London*, between *Rectas præventiones Regni*, which, by the advice of the Lords of the Council, were to be ſpent in the Houſhold, and the other Profits of the Crown to be ſpent *circa ſolutionem & defenſionem Regni*, in the Parliament Roll of 6 *R.* 2. *N.* 42. The Commons Petition, That the King will live of His Revenues, and that Wards, Marriages, Releaſes, Eſcheats, Forfeitures, and other Profits of the Crown, may be kept to be ſpent upon the Wars for defence of the Kingdom; which ſheweth, that there was always a difference made between the Profits ariſing of the Kings Mannors and Lands, and that which roſe by the Prerogative in caſual and accidental ways. My Lords, I have now done with theſe.

Stat. 14 *E.* 3. *Cap.* 1.

Parliament Roll 6 *R.* 2. *Numero* 42.

The third way that the Law hath provided for defence, is ſupplies of Money. *Nota.*

The third way whereby the Law hath provided for the defence of the Kingdom, is particular ſupplies of Money for the defence of the Sea alone in times of danger, both ordinary and extraordinary; for beſides the Supplies of Money before-mentioned, which are to be imployed for the good and defence of the Realm in general, as in the other Caſes where the Law putteth the King to any particular Charge for the protection of the Subject, it always enables Him thereto, yields Him particular ſupplies of Money for the maintenance of the Charge; ſo here, the Courts of Juſtice for the preſervation of us in our Rights are ſupported at His Charge, and that is the reaſon why He hath all Fines and Amerciaments, the Goods of Out-lawed Men in Perſonal Actions, *Bract. lib.* 3. *Cap.* 13. *fo.* 129. and Fines for purchaſing of Original Writs, *& pro licentia concordandi*, which in ſuppoſition of Law are paid, for not proceeding, and for troubling without cauſe, the Kings Juſtices who are maintained in their Places at the Kings Charge: theſe they are the *vectigal' Juditiarium.*

Bract. lib. 3. *Cap.* 13. *fo.* 129.

The defence of the Realm extends it ſelf to many Particulars.

1. Of the Church and of Religion; and therefore in the Summons of Parliament the cauſe of the Calling of the Parliament is always declared to be *pro defenſione Eccleſiæ Angliæ* in particular, as well as *totius Regni.*

His

His Majeſty therefore hath the Temporalities of all Biſhopricks, *ſede vacante*, a Prerogative, and that which Patrons have not, with an Addition of the Firſt Fruits and Tenths of them, and all other Eccleſiaſtical Promotions and Benefices in *H.* the 8*th*'s time, and likewiſe the Tyths of all Lands which lie not within any Pariſh. 13 *Caroli.*

2. For defence of Land alone, beſides theſe Military Services before-mentioned, the Profits of Wards and Marriages, which, as I have read, no other Chriſtian Prince hath as a Fruit of them, are received for that purpoſe.

So it is for the Sea in *Rot. Scoc.* 10 *E.* 3. *m.* 16. It is ſaid that the King and His Anceſtors *Domini Maris Anglicani & defenſores contra Hoſtium invaſiones ante hæc tempora extiterunt*; for the ſupporting of this Charge therefore, they have not only had the Grand Cuſtom of the Mark and Demy-Mark upon the Wooll, Wool-fells, and Leather, and the Priſage, that is, one Tunn of Wine before the Maſt, and one behind of every tenth Tunn, which were even due by the Common Law, as appears by the Book of my Lord *Dyer*, 1 *El.* 165. and Sir *John Davis's* Reports *fo.* 8, & 9. and implied by *Magna Charta Ca.* 30. that Merchants may Trade *per rectas & antiquas Conſuetudines*; but likewiſe divers other things were afterwards granted by Act of Parliament in addition to them. *Ro. Scoc.* 10 *E.* 3. *m.* 16.

As firſt, the Petty Cuſtom began 31 *E.* 1 and made perpetual by the Statute 27 *E.* 3. *Cap.* 26. and likewiſe divers Aids and Subſidies, which are an encreaſe of Cuſtoms upon the Staple Commodities of Woolls, Wool-fells, and Leather, and Tunnage, and encreaſe upon Wines, and Poundage, and encreaſe upon all other things imported or exported, either by Denizens or Aliens: That which in this kind was taken by His Majeſty 11*th* of His Reign, when this Writ went out, was 300000 Pounds and upwards. Petty Cuſtome 31 *E.* 1. Stat. 27 *E.* 3, *Cap.* 26.

The Aids and Subſidies, and likewiſe the Tunnage and Poundage anciently granted upon particular occaſions only, and afterwards to the late King and Queens for their Lives by Act of Parliament; and and being now granted to His Majeſty; and likewiſe the new Impoſition, which altogether make up the afore-mentioned Sum of 300000 *l.* of the Legality hereof I intend not to ſpeak; for in caſe His Majeſty may impoſe upon Merchandiſe what Himſelf pleaſeth, there will be the leſs cauſe to Tax the In-land Counties; and in caſe he cannot ſo do, it will be ſtrongly preſumed, that He can much leſs Tax them. The proving of theſe Two things herein will ſerve my turn.

1. That His Majeſty *de facto* takes them, and that this judicially appeared to your Lordſhips and the Court.

And 2. That theſe and the Ancient Cuſtoms are for the defence of the Sea.

For the firſt, it was declared by His Majeſty in the laſt Parliament, and annext to the Petition of Right, as part of it, that His Majeſty took them, and could not be without them; whereof He likewiſe deſired the Judges to take notice, and that they might ſo do, it is Enrolled both in this, and other the Courts of *Weſtminſter-Hall.*

For the ſecond, that the grant of Cuſtom is principally for the protection of Merchants at Sea againſt the Enemies of the Realm,

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and Pirates, the common Enemies of all Nations, is Sir *John Davis's* Reports *fo.* 9, 12. And that theſe, and likewiſe the Impoſitions are for that purpoſe, was held by many of the Judges in the Argument of *Balles* his Caſe 7 *Jac.* in the *Chequer*, in the Caſe of Impoſitions upon Currands; and likewiſe by the Kings Council, when the ſame Caſe afterwards came to be debated in Parliament, and was one of the main Reaſons urged by them for the maintenance of that Judgment. That the Aids and Subſidies, and likewiſe the Tunnage and Poundage, before they were granted for Life, were not only for the Protection of Merchants, and the ordinary defence of the Sea, but alſo for the defence thereof in times of extraordinary dangers, and of Invaſion from Enemies, appears by the ſeveral grants of them in the Parliament Rolls.

Sir *John Davis's* Reports *fo.* 9. 12. 7 *Jac. Balls* his Caſe in the *Sea.*

Rot. Parliament. 1 *R.* 2. *pars* 2. *N.* 9, & 27. the Kingdom being in point to be loſt by the Enemies of *Spain* and *France*, and divers others there mentioned, who made War both at Land and Sea; a Subſidy upon the Grand Cuſtoms was granted, as the words are, *pur le defenſe & Reſcous del' Kingdom*; this was for two years, and perſons aſſigned to receive and expend the Money.

Rot. Parl. 1 *R.* 2. *pars* 2. *N.* 9. 27.

Co'ia Mich' 3 *R.* 2. *London. William Wallworth* and *John Philpott* Citizens of *London*, the Treaſures of it upon their Accompt ſhew the particulars how this Money was expended *circa ſalvationem & defenſionem Regni*, and diſcharged.

Co'ia M. 3 *R.* 2. *London.*

Rot. Parl. 3 *R.* 2. *N.* 16, 17. the ſame Cauſe as 1 *R.* 2. continuing, and that the Enemies intended to blot out the Name of the *Engliſh* from under the Heaven; the Subſidy continued for a year longer.

Parl. 3 *R.* 2. *N.* 16, 17.

5 *R.* 2. *pars* 2. *N.* 14, 15. Tunnage and Poundage granted *iſſuit que ſoit apply ſur ſafeguard del' mere, & nul parte a il hors*, and the King, at the Petitions of the Commons, appoints Receivers.

Par. 5 *R.*

6 *R.* 2 *pars* 2. *N.* 13. The Commons Complain, that notwithſtanding the Grant of Tunnage and Poundage, the Sea is not kept, and therefore Perſons named and aſſigned in Parliament to receive the Money, and to do it.

Par. 6 *R.* 2. *N.* 13.

Rot. Parl. 10 *R.* 2. *N.* 1. Tunnage and Poundage, and Subſidy for a year.

11 *R.* 2. *N.* 16. & 12. Tunnage and Poundage, and Subſidy for a year.

13 *R.* 2. *N.* 20. both for a year.

14 *R.* 2. *N.* 16. both for three years.

17 *R.* 2. *N.* 12. both for three years.

20 *R.* 2. *N.* 18. Subſidy for five years, and Tunnage and Poundage for three years.

2 *H.* 4. *N.* 9. both for two years.

6 *H.* 4. *N.* 9, 10. both for two years, upon condition to ceaſe, if the King before St. *Hillary* provide not a ſufficient Army for the Sea.

11 *H.* 4.

8 *H.* 4. *N.* 9. and 9 *H.* 4. *N.* 26. both as 6 *H.* 4. 11 *H.* 4. both for two years, for the common Commodity and defence of the Realm: 13 *H.* 4. *N.* 10, & 11. for one year, ſo as the ſame be confeſſed to proceed of their own good will, and not out of duty.

5 *H.* 5. *N.* 17. for four years, as 13, *&c.* and upon many Conditions.

1 *H.*

13 *Caroli.*

1 *H.* 6. *N.* 9. For two years.

3 *H.* 6. *N.* 17 Subſidy for three years, Tunnage and Poundage for one year.

4 *H.* 6. 22.

6 *H.* 6. *N.* 11. For two years Tunnage and Poundage, *viz.* 6 *s.* 8 *d.* upon every Man within a Pariſh Church, that hath twenty Nobles, and 6 *s.* 8 *d.* upon every Knights Fee held immediately of the King.

8 *H.* 6. 15. Tunnage and Poundage to continue until the next Parliament.

9 *H.* 6. 14. both, and for two years.

10 *H.* 6. 21.

4 *H.* 6. 14. for two years.

23 *H.* 6. 16. for four years, and double upon Aliens.

27 *H.* 6. 10. as 23 for five years.

31 *H.* 6. *N.* 8. and 42. Tunnage and Poundage firſt granted for life, and *N.* 41. aſſigned into the Subjects hands three years for the good of the Seas.

3 *H.* 4. *N.* 29.

My Lords, either by the Grant it ſelf of them, or by the Declaration of the Calling of the Parliament, it appears that thoſe were all granted upon extraordinary occaſions; and when they came to be granted for life, as appears by the Rolls, and likewiſe by the Printed Statutes of 13 *Ed.* 4. *Cap.* 3. 13. and they were not only granted for the ordinary defence of the Realm, and principally of the Sea; but likewiſe that the Kings might always have in readineſs a Stock of Money in their Hands to withſtand an Invaſion, as is declared by the very words of thoſe Statutes.

Stat. 12 *E.* 4. *Cap.* 3. 1 *E.* 6. *Cap.* 13. 1. *Mar. Ca.* 19. 1 *El. Cap.* 19. 1 *Jac. Cap.* 33.

My Lords, His Majeſty is in poſſeſſion of them, and was pleaſed by His Proclamation Printed 1626. declaring the cauſe of the diſſolution of the laſt Parliament, as appears by *Pag.* 17. to declare that they were always granted to His Progenitors for the guarding of the Seas, and the ſafety and defence of the Realm; and in the 18*th* Page is graciouſly pleaſed in theſe words to declare, That He doth and muſt ſtill purſue theſe ends, and undergo that Charge for which it was firſt granted to the Crown; and Page 44. that he receives it for the guarding of the Seas, and defence of the Realm.

Proclamation 1626. *Pag.* 17, & 18.

My Lords, I have now done with the ways which I firſt propounded, whereby the Law hath provided for the defence of the Realm; I ſhall add this only, that by the Statute of *Wincheſter*, which was made in the 13*th* year of *E.* 1. every Man *ſecundum ſtatum & facultates*; for the words of the Statute are, according to the quantity of his Lands and Goods is to find Horſe and Armour for the defence of the Realm: For that that Statute in this particular extends not only to the keping of the Sea, but likewiſe to the defence againſt Forreigners, is declared in the Parliament Roll of 3 *R.* 2. *N.* 36. and by the Stat. of 5 *H.* 4. in the Parliament Roll *N.* 24. not printed, *juxta quantitatem terrarum & bonorum* againſt Invaſions, each Man is to find Armour, and by the Statute 1 *E.* 1. *Cap.* 5.

Stat. *de Wincheſter* 13 *E.* 1.

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Par. 3 *K.* 2. *N.* 36. *Stat.* 5 *H.* 4. *Parl. Roll N.* 24. 4, & 5 *P.* & *Mar. Cap.* 2. 1 *Jac.* 24.

Theſe Men, upon ſudden coming of ſtrange Enemies into the Realm, may be compelled to march out of their Counties where they live; whether they may be compelled ſo to do without Wages, I ſhall have occaſion afterwards to ſpeak, how far the Statutes of *Wincheſter*, and 5 *H.* 4, for Arms, upon the Statute of 4, & 5. *P.* & *M. Cap.* 2. and 1 *Jac. Cap.* 25. are in force, I ſhall not ſpeak. Firſt, my Lords, I ſhall now proceed to the ſtating of the Queſtion.

Bracton, in the beginning of his Book ſays, That in *Rege neceſſaria ſunt hæc duo Arma ſcilicet, & Leges, quibus utrumq; tempus Bellor' & Pacis rectè poſſit gubernari*; and *Glanvil* in the beginning of his Book, *Regiam Majeſtatem Armis contra Gentes ſibi Regnoq; inſurgentes oportet eſſe decoratum*; His Majeſty, as He is Lord of Sea and Land, ſo by that which hath been ſaid it appears, that He is armed with Power for the defence of both. My Lords, the reaſons in the Writ, as they are weighty, ſo from theſe known ſupplies, whereby the Law hath provided for the ſafety of the Realm, they will all of them be confeſſed, and yet thereby receive anſwer; and that the Law hath fore-ſeen, and provided the ſupplies accordingly, without the way in the Writ. 1. The command in the Writ being in *fide & legiantia quibus nobis Tenemini*, it's thence inferred, that each Subjects Allegiance binds him to contribute to the defence of the Realm. In the old Cuſtomes of *Normandy Cap.* 43. Allegiance binds *ad Conſilij & Auxilij Adjuramentum*; this, although it be principally performed by the Parliamentary, both Advices, and Aids, yet beſides theſe extraordinary, by that which hath been ſaid, we ſee both by the Tenures in kind, and pecuniary Supplies, that without the aſſiſtance thereof our Perſons, Lands, and Goods, by His Majeſties command alone, are made contributory thereunto, and that in a large proportion. 2. If the Rule whereby this Contribution muſt be regulated be, as in the Writ, *Secundum Statum & facultates*, that likewiſe is ſatisfied, and that both for Sea and Land.

1. For Land, in caſe either the Statutes of *Wincheſter*, or 5 *H.* 4. be a-foot, then in words in that of finding Arms *juxta quantitatem terrarum & bonorum*: So ſecondly in reſpect of the Tenures by Knights-Service in the Wars, Marriages, and Reliefs, thoſe I confeſs concern the Tenant only; but thoſe others are Tenures in *Capite* and Grand Serjeanty, theſe concern all others in reſpect of the Licenſes of Alienation, and of the Wardſhips of Lands held of other Lords, and that all the Tenants Land is hereby become wardable; and thirdly, in reſpect of the Prerogative before-mentioned; for the greater the Subjects Eſtate is, the greater influence they have into it, and proportionably raiſe more profit out of it.

In reſpect of the Sea, this is ſo by reaſon of the Cuſtomes, Aids, Subſidies, Tunnage, and Poundage, before-mentioned; for the Charge of theſe is not born by the Merchants alone, but by each Subject within the Kingdom, and that *Secundum Statum & facultates*.

For firſt in reſpect of the Exporte, the greater the Eſtate, the more Wooll and Wool-fells, and Leather, Lead, and other ſtaple Commodities it exports; if that be done by the owner, he bears the immediate Charge, if by the Merchant, according to that proportion is his abatement in Price unto the owner. So it is for

Goods

Goods imported, for the greater the Eſtate and means of Livelihood, the more each Perſon buys of thoſe, and at a dearer rate. This is cleared by the Petition of the Commons in the Parliament Roll, 22 *E.* 3. *N.* 41. that the Merchants had granted to the King 40 *s.* upon a Sack of Wooll *en Charge du people, & nemy des Marchants*; and by the Statute of 36 *E.* 3. *Cap.* 11. that no Subſidy or Charge be granted to the King by the Merchants upon Wooll, without Aſſent in Parliament.

Par. Roll 22 *E.* 3. *N.* 22.

Stat. 36 *E.* 3. *Cap.* 11.

3. Hence likewiſe that other ground of Equity in the Writ, *Quod omnes tangit per omnes debet ſupportari*, receives anſwer; for as all have benefit by the defence, ſo the *Compenſatio publica*, we ſee it come from all: the fuller Anſwer, is the Parliament Summons of 23 *E.* 1. proviſion againſt the *French*, who intended *linguam Anglicanam omnino debere*, *Clo.* 23 *E.* 1. *M.* 14. *Dor. Lex juſtiſſima provida circumſpectio ſacrorum principum ſtabilita ſtatuit, & quod omnes tangit ab omnibus approbatur.* The Charge, as it muſt be born by all, ſo muſt it be approved by all.

Par. Sommons 23 *E.* 1.

Clo. 23 *E.* 1. *M.* 4. *Dorſ.*

4. If His Majeſty be entruſted with the defence of the Realm, as in the great Caſe between the Earls of *Hereford* and *Glouceſter*: It's ſaid, that *incumbit Domino Regi ſalvatio Populi ſibi Comiſſ.* and that *per Juramentum eſt aſtrictus ad providendum ſalvationem Regni circumquaq*; becauſe no Man goeth to War at his own Charge; we ſee by that which is already ſaid, that the Law hath provided the *Stipendia Miniſterij*: with that they do not bind His Majeſty to the defence and ſafety of the Kingdom only in point of care and vigilancy, but even in point of Charge too, I ſhall endeavour to prove to your Lordſhips and the Court. Allegiance, we know, is an Act of Reciprocation, for as it binds the Subjects to Tribute and Subjection, ſo therefore muſt it the King to the Charge of Protection, by the expence of thoſe; *Rex ad Tutelam Legis, corporum & bonorum, erectus*: the ſupplies He hath for that purpoſe ties Him to the ſupportation of the Laws, the execution of Juſtice, 20 *E.* 1. In the Caſe before-mentioned, between the Earls of *Glouceſter* and *Hereford*, it is ſaid, That *Dominus Rex eſt omnibus & ſingulis de Regno ſuo Juſtitiæ debitor*; which that he is ſo even in point of Charge appears by His Majeſties ſupportation of the Courts of Juſtice, and the Salaries, not only to your Lordſhips, and other the Inferior Miniſters of Juſtice, and anciently to the Sheriffs, but likewiſe many other ways, 4 *H.* 7. *Cap.* 12. The King ſhall not let for any favour of Charge, but that He ſhall ſee His Laws fully executed, *Pa.* 23 *E.* 1. *Rot.* 12. *Exchequer.* A Clark that attended a Commiſſion of grievances, recovered Salary from the King, although the Commiſſion was for the Relief of that Country.

Hill. 20 *E.* 1. *B. R. Ro.* 14.

Forteſcue Cap. 13.

This I conceive to be the Reaſon of the Declaration in the Statute of 14 *E.* 3. *Cap.* 1. and other Statutes, that Aids, though granted in Parliament for defence, ſhall not be brought into example, that it might not be conceived that the Commons were to bear that Charge which principally belonged unto the King, *Pat.* 48 *H.* 3. *M.* 8. it recited, That whereas a late Parliament *in Articulo neceſſitatis pro defenſione Regni contra Hoſtilem Adventum Alieniginarum*; the Commons granted him a large Subſidy, *ultra quam retroactis temporibus facere conſueverunt.* Now the King *eorum indempnitate proſpicere volens*, grants, that *non cedat in prejudicium, nec in poſterum*

non

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2. *Report fo.* 15. *Wiſemans* Caſe.

non trahatur in Conſuetudinem, in *Wiſemans* Caſe. In 2 *Report fo.* 15. it is reſolved, that a Covenant to ſtand ſeiſed to the uſe of Queen *Eliz.* in conſideration that She is the Head of the Common Wealth, and hath the care of repelling Forreign Hoſtility, is not good, becauſe, ſaith the Book, the King is bound to do that *ex Officio*.

Cam. 315. One Reaſon why the King is to have Royal Mines, alleadged by all that argue for the King, is, becauſe He is at His own Charge to provide for the defence of the Realm, which he cannot do without Money. In the Earl of *Devonſhires* Caſe, *Co.* 11. 91. 6. *Inſt. fo.* 28. *&* 131. *Theſaurus Regis* is called *Nervus Belli*. For the practiſe, the proof of the particular Charges the ſeveral Kings have been at for the defence of all ſorts, would be ſo tedious, that I'le omit the citing of any thing in this kind: Sir *John Davies's Reports fo.* 12. many Authorities; and in the Treatiſe *de Regalibus*, p. 81. *Principes totam Navigationem pro vectigalibus præſtare coguntur*.

But becauſe His Majeſty, in the before-mentioned Proclamation, *Pag.* 18. *&* 44. is pleaſed graciouſly to profeſs, That He holds Himſelf obliged to undergo the Charge of the defence of the Realm, and of the Sea in particular, I ſhall ſpare any further Proof in this.

5. If that in the Writ, That the Sea *per gentem Anglicanam ab olim defendi conſuevit*, be not anſwered by the *Scotch* Roll of 10 *E.* 3. before cited, which ſays, That the King and His Anceſtors, *Maris Anglicani defenſores antehac extiterunt*, nor by what is now ſaid, if it be admitted; yet that even the Charge of this defence is born *per gentem Anglicanam* is before proved.

The Sixth, and one of the main things whereupon I ſhall ſtate my Queſtion, is this; His Majeſty is in the actual Poſſeſſion, not only of the Services in kind for the defence of the Land, by taking of the benefit of the Wardſhips, Marriages, Reliefs, Fines, and Licences for Alienation and primer Seiſin, and of the Prerogatives before-mentioned, but likewiſe of the Service of the five Ports, unleſs they be releaſed ſince 7 *H.* 7. for then their Service was ſummoned. And of the Tunnage and Poundage, and other Duties for the defence of the Sea,

It appears not by any part of the Writ, nor by any thing in the Record, that either the Service of the Cinque-Ports was ſummoned, or that any Money at all of His Majeſties was expended either for this Service, or at any other time for the defence of the Sea.

My Lords, I deſire to be underſtood, I do not affirm that none was expended; only this appears not to your Lordſhip and the Court.

All that can be inferred from the Writ, as to this purpoſe, is, That the Ship for *Buckinghamſhire* is commanded to be at *Portſmouth* by ſuch a day, *ad proficiſcendum exinde cum Navibus Dom' Regis & Navibus aliorum fidelium ſubditorum ſuorum*; by this it appears not to the Court, that though the Ships are the Kings, that they are to be ſet forth at the Kings Charge, for the Charge may be born by the Subject for ought appears.

Neither, ſecondly, doth it appear how many theſe Ships were, whereby the Charge, in caſe it were born by the King, might in any proportion appear to be anſwerable to the Supply before-mentioned.

Theſe

13 *Caroli.*

Theſe other Ships *aliorum fidelium ſubditorum Domini Regis*, as in truth they were not thoſe of the Cinque-Ports, ſo neither can they be ſo intended, unleſs it had been ſo expreſſed.

The Services of the five Ports, and Tunnage and Poundage, and other Duties, are the ordinary, the ſetled and known ways, by Law appointed for the defence of the Seas: The way in the Writ by Seſſing and altering the property of the Subjects Goods without their conſent, as in the Writ, muſt needs be granted to be a way more unuſual and extraordinary; againſt the Legality of it, I ſhall therefore thus frame the Argument by way of admiſſion. Firſt, That in caſe the Services of the Ports had been ſummoned, and the Money coming by the before-mentioned ways had been expended upon the defence, and they had not been ſufficient; that though in this Caſe the Writ had been legal, that yet as now it is not. *Reylies* Caſe in the 10*th* Report *fo.* 139. and *Trin.* 18 *E.* 2. *B. R. Ro.* 174. adjudged; That ſo long as he that is bound by Tenure or Preſcription is able to do it, the whole Level cannot be Seſſed to the Reparation of a Wall or Bank.

It's a Maxime, *Lex non facit ſaltum*, nor that we are to run to extraordinary, where the ordinary means will ſerve the turn. Theſe Rules are often put in our Books, I intend to inſtance but in one or two Caſes.

The Common Law is the common reliever of Perſons wronged, that in *Chancery* is extraordinary, and therefore no Man can Sue there when he hath remedy at the Common Law: The ordinary Tryal for Life is by Indictment, and a Jury, when therefore this may be done, and that the Sheriff with the *poſſe Comitatus* is able to keep the Peace, it cannot be done by Martial Law, nor by Judgment of the King and Peers in Parliament without Indictment, as was adjudged in the Caſe of the Earl of *March*, *Trin.* 28 *E.* 3. *B. R. Ro.* 21.

My Lords, the reaſon of this Maxime of Law, as I conceive, is this; Actions extraordinary, as *extra ordinem*, and done only in times of neceſſity, are not tyed to any Rules of Laws, and therefore not to be brought into example; nor have any warrant, but only that of neceſſity, nor Rule to guide them, but what, *pro hic & nunc*, ſhall ſerve for the bringing of them about: The ſame Power then that may once do them, in omitting of the ordinary, may by the ſame Rule always do them; and ſo by conſequence how far ſuch Power is tyed at any time, or in any thing to any Rules of Law, I ſhall humbly ſubmit to your Lordſhips conſideration.

My Lords, I have now done with the ſtating of the Queſtion: Theſe things whereupon I ſhall ſpend all the reſt of my time, are theſe five.

1. Admitting that the ordinary means before-mentioned had been all uſed, and that they had not been ſufficient, whether in this Caſe His Majeſty, without conſent in Parliament, may, in this Caſe of extraordinary defence, alter the property of the Subjects Goods for the doing thereof.

2. In the next place I ſhall endeavour to anſwer to ſome Objections which may be made to the contrary.

3. In the third place, for qualifying of this I ſhall admit, that in ſome Caſes the property of the Subjects Goods, for the defence of

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4. In the fourth place, becauſe of ſome Preſidents of the matter of Fact, and likewiſe Legal Authorities that may ſeem to prove a Legality in this Particular of Shipping for the defence at Sea, whatever it be in the general; I ſhall therefore endeavour an anſwer to ſuch of them as I have met withal.

And ſhall conclude in the laſt place with the Authorities in Point.

From the firſt, That to the altering of the property of the Subjects Goods, though for the defence of the Realm, that a Parliamentary aſſiſtance is neceſſary.

In this it muſt be granted in the firſt place, that the Law ties no Man, and much leſs the King, to impoſſibilities.

And ſecondly, that the Kingdom muſt be defended.

As therefore the Law hath put this great Truſt upon His Majeſty; ſo when the Supplies, which by the ways before-mentioned it hath put into his Hands, are ſpent, therein it hath provided other ways for a new Supply, which is the firſt thing that I ſhall preſent to your Lordſhips, and this is the Aids and Subſidies in Parliament.

That amongſt the *ardua Regni negotia*, for which Parliaments are called, this of the Defence is not only one of them, but even the chief, is cleared by this, that of all the reſt none is named particularly in the Summons, but only this; for all the Summons to Parliament ſhew the cauſe of the calling of them to be *pro quibuſdam arduis negotiis nos & defenſionem Regni noſtri Angliæ & Eccleſiæ Anglicanæ concernentibus.* And in concluſion, the Party ſummoned is commanded to be there *ſicut honorem noſtrum, & ſalvationem, & defenſionem Regni & Eccleſiæ diligit.*

And in all the ancient Summons of Parliament, when Aid was demanded, the particular cauſe of Defence, and againſt what Enemy in ſpecial was mentioned.

My Lords, to gain time, I'le inſtance but in one or two of each Kings Reign, *Clauſ.* 23 *E.* 1. *m.* 4. *Dorſ.* That the *French*, *ad expugnationem Regni noſtri clam ſe maxima & Bellatorum copioſa multitudine Regnum jam invaſit, & Linguam Anglicanam omnino delere proponit.*

Clauſ. 3 *E.* 2. *M.* 3. *Dor.* and 7 *E.* 2. *M.* 8. *Dor.* That the *Scots* had entred, burnt, and deſtroyed the *Marches*, and put them to a Tribute.

Clauſ. 1 *E.* 3. *pars* 2. *M.* 6. and 22 *E.* 3. *M.* 32. *Dorſ.* That the *Scotch* and *French* had invaded the Realm.

Clauſ. 7 *H.* 4. *M.* 29. *Dorſ.* That the *French* were with a great Fleet *quaſi in ore Thameſiæ* to invade the Kingdom, and the King to go in Perſon.

After this Kings Reign the form of the Summons was as now.

That theſe *ardua defenſionem Regni concernentia*, are the Aids and means of Defence, and not the way and manner of doing it, as their Counſel therein, is clear.

In the Parliament Roll 6 *R.* 2. *pars* 2. *N.* 9.

This

13 *Caroli.*

This of the manner and way of proſecution of the War, being given in charge to the Commons to adviſe upon; they anſwer, that this *nec doit nec ſoloit appertaine al eux mes al Roy.*

Rot. Parliament. 13 *E.* 3. *pars prima N.* 11. The ſame being given in Charge to the Commons, they pray *que ils ne ſont Charge a Councel Dover al choſes des quel ils n'ont pas Conizance*; and ſo *Rot. Parliament.* 21 *E.* 3. *N.* 5. they excuſe themſelves, and that this belongs to the King and His Council.

And that theſe *Ardua circa defenſionem* were the Aids, is expreſt in words in ſome of the Summons, *Clauſ.* 7 *E.* 2. *M.* 8. *Dorſ.* The cauſe of the Parliament to withſtand the *Scots*, and that *in tam arduis debitis extendere manus adjutrices opportuna auxilia faciendo.*

Clauſ. 31. *E.* 3. *M.* 21. *Dorſ.* That Summons *circa neceſſariam defenſionem Regni, quum ad dictum negotium expediendum auxilium neceſſario habere oportet.*

Clauſ. 5 *R* 2. *M.* 2. *Dorſ.* The King being to make a Voyage *pro defenſione Regni & gravamine inimicorum Regni*, which could not be done without borrowing great Sums of Money, therefore the Parliament called to adviſe about the Aſſurance.

So that, My Lords, it's clear that the Law hath provided this Parliamentary way for the ſupplying of the Kings wants for the extraordinary defence, and hath likewiſe put the Power of uſing it into His Majeſties own Hands; for He may call Parliaments when, and ſo often as He pleaſe.

My Lords, the Parliament, as it is beſt qualified, and fitted to make this Supply for ſome of each Rank, and that through all the Parts of the Kingdom being there met, His Majeſty having declared the danger, they beſt knowing the Eſtates of all Men within the Realm, are fitteſt, by comparing the danger and Mens Eſtates together, to proportion the Aid accordingly.

And ſecondly, as they are fitteſt for the preſervation of that fundamental propriety which the Subject hath in his Lands and Goods, becauſe each Subjects Vote is included in whatſoever is there done; ſo that it cannot be done otherwiſe, I ſhall endeavour to prove to your Lordſhips both by Reaſon and Authority.

My firſt Reaſon is this, That the Parliament by the Law is appointed as the ordinary means for ſupply upon extraordinary occaſions, when the ordinary Supplies will not do it: If this in the Writ therefore may, without reſorting to that, be uſed, the ſame Argument will hold as before in reſorting to the extraordinary, by of the ordinary, and the ſame inconvenience follow.

My ſecond Reaſon is taken from the Actions of former Kings in this of the defence.

The Aids demanded by them, and granted in Parliament, even for this purpoſe of the defence, and that in times of imminent danger, are ſo frequent, that I'le ſpare the citing of any of them: It's rare in a Subject, and more in a Prince, to ask and take that of gift, which he may and ought to have of right, and that without ſo much as a *Salvo*, or Declaration of his Right.

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The ſecond way was Loans and Benevolences demanded by them, with promiſe of re-payment both for the ordinary and extraordinary defence of the Realm, and that as well of all the Subjects equally by Commiſſion, as of ſome few.

Pat. 48 *H.* 3. *M.* 16. A Commiſſion to the Earl of *Leiceſter*, and other, *contrahendi mutuum in nomine noſtro de denarijs & victualibus*, and other things *in munitionem Navium ponendis & nautarum ſtipendiis contra hoſtilem adventum alienigenarum in Regnum noſtrum, ad defenſionem & tuitionem ejuſdem Regni*, and promiſeth re-payment.

Viſus Compit' in the Clerk, 26 *E.* 1. *Rot.* 100. The King borrows of the Merchants 28966 *l. pro defenſione Regni*, and promiſeth re-payment.

H. 31 *E.* 1. *Rot.* 4, *&c.* and *Trin.* 31 *E.* 1. *Rot.* 41. Divers Sums borrowed *pro defenſione*, and payment promiſed.

Bract. Irret. H. 34 *E.* 1. *R.* 82. 10000 *l.* paid by the King at one time for Money borrowed; this I confeſs is only *pro Arduis Regni negotiis.*

Bra. M. 11 *E.* 2. *Ro.* 1. The *Scots* having entred the Kingdom, *diverſa homicidia, incendia & depræ dationes perpetrantes*: The King being in Perſon to go againſt them, writes to His Council to provide Money, and they *diverſas vias pro denariis providendis exquirentes*, reſolveth to borrow.

P. 12 *E.* 2. *Co'ia*, for the ſame cauſe a Loan upon all Merchant-ſtrangers.

Ro. Scot. 1 *E.* 3. *M.* 3. The *Scots* having entred the Realm, beſieged divers Caſtles, and threatned a Conqueſt of *England*, and *quia creſcit ſumptuum multitudo in tantum quod Theſaur' noſtrum ad ſuſtentationem exercitus noſtri nequaquam ſufficit*, he borrows.

Claſ. 14 *E.* 3. *M.* 8. The King had borrowed 3333 *l. pro ſalvatione & defenſione Regni, & vult promptam ſolutionem fieri prout decet*, and now aſſigns it to be paid out of the Cuſtoms.

Walſingham P. 179. 44 *E.* 3. The King *ſiniſtro uſus conſilio magnas ſummas pecuniæ* of all ſorts, *mutuo petijt, aſſerens quod in defenſionem Eccleſiæ & Regni illas expenderet*; but the People would not lend.

Clauſ. 5 *R.* 2. *M.* 12. *Dorſ.* The King, *pro defenſione Regni*, being to make a Voyage at Sea, deſires to borrow Money, and a Parliament called to give aſſurance.

7 *H.* 4. *Rot. Franc.* Money borrowed *pro defenſione, volens promptam & ſecuram ſolutionem fieri.*

Rot. Parliament. 11 *H.* 6. *N.* 13. 100000 *l.* borrowed *pro defenſione*, and ſpent, and the Parliament orders *pro ſecuritate.*

Rot. Parliament. 15 *H.* 6. *N.* 3. 100000 *l.* borowed *pro defenſione* by the King.

Stat. 11 *H.* 7. *Cap.* 10. It appears that a Benevolence had been deſired by *H.* 7. for the defence of the Realm, and wherein He went in Perſon.

The known Commiſſion to Cardinal *Wolſey* for the Benevolence in *March* 16 *H.* 8. It was to withſtand *infeſtiſſimos Hoſtes* of *France* and *Scotland*, who intended to invade the Realm, and that the Kings Coffers were now empty; and therefore they have power *Communi-*

candi

13 *Caroli.*

candi & inducendi, perſuadend' & practicand' cum ſubditis Regis ſuper amicabili pecuniarum conceſſione.

Secunda pars Pat. 37. *H.* 8. *Cum pro ſuſtentatione ingentis oneris noſtrorum operatuum quos in præſenti tam per mare quam per terram conficere, & in promptu habere cogimur ad reſiſtendum*; &c. *Propellendum hoſtem noſtrum Francorum Regem, in defenſionem, tutelam & ſecuritatem dilectorum ſubditorum noſtrorum, quorum ille dampnum & interitum omnibus vijs & modis molitur, ſtatut' & ex conſenſu, & ſententia Concilij noſtri decrevimus aliquam opem de dictis ſubditis noſtris petere, & eand' cum eorum benevolentia recipere, pro eorum cujuſlibet facultate miniſtrand' nihil dubitantes quin ſponte & liberalit' quiſq; pro ſua partitione & facultate elargiturus ſit, eoq; magis, & citius, quod id totum conſumat' & cedet in ſuam ipſorum defenſionem & tuitionem*; and the power is given to levy it as a Benevolence only.

By the Statute of 35 *H.* 8. *Cap.* 12. it appears that for the defence *H.* 8. had borrowed divers Sums of Money.

The third way was by anticipating their Rents.

Tr. 29 *E.* 1. *Ro.* 58. in the *Exchequer* Writs to all the Sheriffs of *England, pro conſervatione Regni ejuſq; incolarum ſalvatione & inimicorum depreſſione*: That all the Profits ariſing of their Counties, and and the Rents of all the Kings Tenants due at *Michaelmas* be paid at *Midſummer*, and allowance promiſed in the next half years Rent, and that this *ad tam ardua negotia neceſſaria alias in conſuetudinem non trahatur.*

My Lords, that not one or two, but ſo many Kings, and of ſuch Power and Wiſdom, as in many of them were, and that in a matter of ſuch conſequence, and in times of neceſſity ſhould ſo far deſcend from their greatneſs, or ſo far prejudice their Right, as to borrow that of the Subject, who without being beholding to them they might take of right, and bind themſelves to re-payment, and all without any *Salvo* of the Right, your Lordſhips will conceive that it can hardly be imagined.

My third Reaſon is taken from the incertainty of the way intended in the Writ, for the Law delighting in certainty, to the end that the Subject might be ſure of ſomewhat that he might call his own, hath made all thoſe things which the King challengeth as peculiar to himſelf from the Subject, either certain in themſelves, or elſe reducible to a certainty, either by the Judges, Jury, or Parliament, or by ſome other way than by His Majeſty Himſelf, as indifferent between the King and His People.

In this I intend not ſuch things as are common to the King with the Subject, of which nature are the Aids for marrying the Kings eldeſt Daughter, or Knighting his eldeſt Son, for theſe are due to every common Perſon that is Lord, as well as to the King, as appears by the Statute of *Weſtm'* 3 *E.* 1. *Cap.* 35. *N.* 82. and are not due by any ſpecial Prerogative, but by Tenure; and yet the Common Law, for avoiding exceſs therein, calls it *Rationabile auxilium*; and yet even this by the Statute of *Weſtm'* 13 *E.* 2. *Cap.* 35. is put into certainty, and the cauſe of the making of the Statute, as therein is expreſſed, was becauſe the People were grieved by paying more than was requiſite, and thereby that which was reaſonable became an unreaſonable Aid.

This

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This Statute was general, and named not the King particularly; but the Statute of 25 *E.* 3. *Cap.* 11. is only in caſe of the King; and *N. B. fo.* 82. gives the reaſon of the making of that Statute, becauſe the King before did diſtrain for more than was fit; and therefore, by reaſon of the exceſs, was reſtrained to a certainty as well as the Subject: Neither are the Taxes and Tallages upon Cities and Burroughs or Ancient Demeſne againſt this.

In reſpect of the baſeneſs of their Tenures before-mentioned; and ſecondly, becauſe the Subject that is Lord of ſuch Burroughs or Mannors of Ancient Demeſne have them as well as the King, as appears by the Caſe of *New Salisbury* 33 *E.* 1. in the Parliament Book, and in the Parliament Roll 8 *E.* 2. for the Burrough of *Cirenceſter.*

And *Bra. Trin.* 33 *E.* 1. *Ro.* 22. and *N. B.* 79.

Thoſe things which are peculiar to the King, either they be certain in themſelves, as are Treaſure-trove, Deodands, Wrecks, and the like, where the King is to have the thing it ſelf; and ſo if it be in Money, as the Demy-Mark, when a Writ of Right; the Tenant prayeth that the Seiſin may be inquired; Fines *pro licentia concord'*; The tenth part of the Land compriſed in the Writ of Covenant, and the Poſt-fine one half ſo much more, and Fines for purchaſing Original Writs 2 *s.* 8 *d.* where the thing demanded is under 40 *l.* or 10 *s.* where 100 *l.* and ſo in proportion. Or elſe it is reducible to a certainty, as in all Caſes where the Party is to be amerced, though he be *in miſericordia Domini Regis*, yet the Jury muſt affirm the Amerciament; and when he is to make Fine and Ranſome *ad voluntatem Domini Regis*, yet this Fine muſt be ſet by the Judges, when the Tenant by Knights-Service makes default in the Summons; *ad exercitum*, he is to pay *Eſcuage* for the default as a Penalty: this cannot be ſet but in Parliament, as I ſhall prove hereafter.

My Lords, to apply all to the thing in queſtion, there is a cauſe of raiſing Money for the defence of the Realm, *non definitur in lege*; what will ſerve the turn if His Majeſty, as in the Writ, may without Parliament levy 20 *s.* upon the Plaintiffs goods; I ſhall humbly ſubmit it, why by the ſame reaſon of Law it might not have been 20 *l.* and ſo *in infinitum*, whereby it could come to paſs, that if the Subject hath any thing at all left him, he is not beholding to the Law for it but it is left intirely to the goodneſs and mercy of the King.

My Lords, I am now come into the ſecond kind of Proofs, and that is by Authority: The Caſes which in the firſt place I ſhall inſiſt upon, will be to prove it by Induction; for if I ſhall prove that His Majeſty without Parliament cannot tax His People for ſetting forth of Land-Forces for the defence, for making and maintaining of Forts and Caſtles for defence, for Victuals for a defenſive Army, for maintenance of Priſoners taken in a defenſive War, nor Pledges and Hoſtages given by Forreign States for the keeping of Peace; if it be ſo in all theſe Particulars of a defenſive War, I ſhall then offer it to your Lordſhips, whether it can be done at all.

Before I proceed to theſe Particulars, I ſhall obſerve thus much, my Lords, in general, That if thoſe that hold by Ancient Demeſne, and

and Burgage, which are but baſe Tenures, cannot be taxed, *niſi ſur grand Cauſe*, and that have many Priviledges in point of Juriſdiction, eaſe and profit in conſideration thereof, as they have much leſs, then can the Tenants by Knights-Service and Soccage that are free Tenants, and that have no Priviledges in ſupport of that Charge, be taxed. 13 *Caroli.*

And as they are not taxable *ſur grand Cauſe* in the general, ſo neither in particular, for this of the defence, as is proved by that of *Eſcuage*; for if His Majeſty, without conſent in Parliament, cannot tax His own Tenant, nor proportion the Fine according to His Pleaſure, when the Tenant holds the Land *ad exercitum*, for the defence of the Kingdom, much leſs can He do it where there's no Tenure for that purpoſe.

That *Eſcuage* cannot be ſet without Parliament, is firſt the Statute of *Rumny Mede* 17. *Johannis* in expreſs words; *Nullum ſcutagium vel auxilium ponam in Regno noſtro niſi per Commune Concilium Regni noſtri*; which though it be not Printed, yet it is of Record, and Inrolled in the *Red Book* of the *Chequer*, and cited in *Matthew Paris Pag.* 343. And that as well before the confirmation of it, 9 *H.* 3. as ſince, it hath been by the Judges reported to be a Statute, and in force, appears by the Book of 5 *H.* 3. *Mordaum* 53. where it is pleaded and called by the name of *M. Charta*, and allowed; and *M.* 19 *E.* 1. *Finiente* 20. *incipiente B. R. Rot.* 56. in the Caſe of *Rulfe de Tony* it's pleaded by the name of *M. Chart. Johannis Regis de Rumny mede*, and allowed.

In the Book of Knights-Fees of *E.* 1. time, there's a Writ cited, which went to the Sheriff of *Hereford*, thus; *Datum eſt nobis intelligi, quod plures ſunt qui tenent per ſervitia Militaria de nobis qui contradic' ſolvere ſcutagia de Feodis ſuis, & quia ſcutagia nobis ſunt conceſſa per Commune Concilium Regni noſtri*: Therefore he is commanded to levy them, *Co'ia M.* 5 *E.* 2. *Ro.* 4. *Dorſ.* Many Proceſſes iſſued for the levying of *Eſcuage* in *E.* 1. time, ſeperſeded and quite releaſed the reaſon entred in the Roll; *Quia dictum ſervitium non fuit communiter factum*; that is, as I conceive, becauſe it was not done *per Commune Concilium Regni.*

The Books are expreſs, 13 *H.* 4. 5. *Banke N. B.* 83. *E. B. Inſtit. ſec.* 97. My Lords, that thoſe that hold in Soccage or Fee-Farme, or not by ſo many Knights-Fees as they were diſtrained for, were always diſcharged, as appears by infinite Preſidents, I ſhall make no uſe of it as the manner of entring theſe diſcharges upon the Rolls; 'tis obſervable that he is diſtrained, *ac ſi teneret per ſervitium militare*, whereas he holds the Land in Soccage, *pro quibus ſervitium aliquod Regi exercitibus ſuis facere non debet*, and in ſome Rolls that *ratione alicujus Authoritatis*, he ought not to be diſtrained: Therefore, *quia Dominus Rex non vult illum in hac parte injurari, prout juſtum eſt*, the diſtreſſes are releaſed amongſt divers Preſidents; for this I ſhall cite but one or two, *Br. Tr.* 34 *E.* 1. *Ro.* 20. the Abbot of *Abbington*, and *John Arden* the *Iter Roll* of *Suſſex*, 7 *E.* 1. *Rot.* 107. of *Gilbert Gifford*. My Lords, if the King might have raiſed Money, and Seſſed Men for finding Souldiers for their Armies, this manner of Entry, as I humbly conceive, would never have been ſuffered.

I am

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I am now come to the firſt Particular that I have inſtanced, that is the charging of the Subject for finding of Souldiers to go out of their Counties for the defence of the Realm. My Lords, in that I ſhall in the firſt place admit theſe three things.

Firſt, that every Man after the Statute of *Wincheſter*, *ſecundum ſtatum & facultates*, was to find all manner of Arms, as well for the defence of the Realm againſt Forreigners, as for the Peace; and that I have before proved by that of 3 *R.* 2. *N* 36. and after by the Statute of 5 *H.* 4.

That upon ſudden coming of ſtrange Enemies, theſe are compelled to travel out of their own Counties, is the Statute of 1 *E.* 3. *Cap.* 5. and ſo for the appeaſing of any notable Rebellion, when the King, for the doing thereof, was in Perſon, as appears by the Statute of 11 *H.* 1. *Cap.* 1. and *Cap.* 18.

Thirdly, I ſhall admit, that ſo long as they remain at home, and go not out of their Counties, that they are to have no Wages, and that the Maritime Shires for Borders upon *Scotland* and *Wales*, were not to be at the Kings Charge, ſo long as they remained at home in their own Counties for the preſervation of them; but that they were in that caſe themſelves to bear the Charge againſt Forreign Invaſions, as of making of Hue and Cry, aſſiſting the Sheriff when he took the *poſſe Comitatus*, and all other things concerning the keeping of the Peace.

But that the Subject is taxable either for Wages or Victuals, or otherwiſe for ſending of Souldiers out of their Counties, though for the defence of the Kingdom, or that any are compelled to do it at their own Charge, I ſhall humbly deny.

The Statute of 1 *E.* 3. ſays, That in this caſe it ſhall be done, as uſually hath been done in times paſt, for the defence of the Realm. My Lords, I will not deny, but that before *E.* 3*d's* time Commiſſions have iſſued out of the *Chancery* for that purpoſe; againſt which matters of Fact, not only to ballance them, but to weigh them down, it's as clear, that whole Armies, ſome of them of 30000 at the leaſt, over and above thoſe that were ſummoned by their Tenures, have been maintained at the Kings Charge, from the time they have departed out of their Counties, during the whole time of their Service, and that not only with Promiſes of payment, but that were paid, *Ex Theſauro Regis*, out of the *Chequer*; and many times upon fail of payment for Victuals, Wages, and other things, upon Suit for them in the *Chequer*, full payment hath been made, of which ſort in moſt Kings Years there are many Caſes.

My Lords, this is the Anſwer which I give the Commiſſions to the County, That *de facto* the King was at the Charge uſually for defenſive War.

By the Statute of 19 *H.* 8. *Cap.* 1. thoſe that have Annuities of the King muſt attend Him when the King in Perſon goes for the defence of the Realm, or againſt Rebels: But there is a ſpecial Proviſo, that they ſhall have Wages of the King, from the time they ſet out, till they come to the King, allowing twenty Miles a day, and afterwards as long as they ſhall remain in the Service.

Privy Seals ſent to the Gentry to attend the King, *&c.*

Upon a Rebellion in the *North*, 28 *H.* 8. againſt whom the King intended to go in Perſon, Privy Seals were ſent to moſt of the Gentry of *England* to attend the King with the beſt Retinue they could

13 *Caroli.*

could make, and likewiſe to bring the Bills of their Expences, and payment promiſed, as appears by many of thoſe Privy-Seals remaining in the Pallace Treaſury.

And beſides the Indentures themſelves, whereof I have ſeen many: It appears by the Statute of 2, and 3 *E.* 6. *Cap.* 2. that the retainer of Souldiers at the Kings Charge was as well for defenſive as offenſive War. And by Stat. 3 *H.* 8. *c.* 5.

My Lords, in the next place I ſhall endeavour the proof hereof by clear Authority, the Stat. of 25 *E.* 3. *Cap.* 8. is, That none ſhall be compelled to find but ſuch as hold by ſuch Service, if it be not by Grant in Parliament: That this was not *Introductivum Novæ Legis*, appears by the Petition whereupon the Statute was made, that it was *encounter le droit del' Realm.*

That the Common Law was ſo before the Statute, and likewiſe in caſe of a defenſive War, appears by the Authorities following.

P. 26 *E.* 1. *Rot.* 35. *Dor.* The *Scots* entring the Borders, a Commiſſion iſſued *Reignaldo de Gray* to preſs Souldiers in *Lancaſhire* and *Cheſhire*; he certifies by his Letter Inrolled there, *que ſans deniers preſtes*, he could not procure them to march out of thoſe Parts; and therefore order taken in the *Chequer* to ſend Money: That the *Scots* had now invaded the Kingdom, appears by *Bra. Irret. M.* 26 *E.* 1. in *Sacc'*, where Commiſſions are Inrolled for many Thouſands to be levyed for this War at the Kings Wages, *Bra. Tr.* 32 *E.* 1. *Tr.* 31 *E.* 1. *Rot.* 18. *Ca'ia de Wardens* of the *Marches de Cumberland* and *Weſtmorland* writ to the Barons of the *Chequer*; That whereas the *Scots* lay near the *Marches* with a great Army, and that the People of the County would not march out of their Counties without Wages and Victuals, that they would provide for both.

Secunda Pars Pat. 10 *E.* 2. *M.* 26. and 9 *E.* 2. in Parliament, a Grant to find one Souldier for 60 days, at the Charge of the Town, againſt an Invaſion of the *Scots*; now the King grants *quod hujuſmodi conceſſio non cedat in prejudicium nec trahatur in conſequentiem in futuro.*

At the time when this Aide was granted, the *Scots* had entred the Realm, and waſted the Biſhoprick of *Durham*, as appears *M.* 14 *E.* 2. *B. R. Rot.* 60.

Rot. Scoc. 12, & 13 *E.* 2. *M.* 7. & 13. The ſame indemnity upon the like occaſion of defence, when they fonnd the Souldiers *ad Rogatum Regis*, and the King commanded the Chancellor to declare as much.

Cla. 13 *E.* 3. *M.* 38. *Dorſ. pars prima.* The Abbot of *Ramſey* diſcharged, *pro Cuſtodia Maritinæ*, in the County of *Norf.* becauſe he remained in his own Country of *Huntington*, *cum Equis & Armis*, to the defence thereof with this; that therefore it was not *rationi conſonum* to charge him further. The ſame it is *Rot. Fraunc.* 21 *E.* 3. *in prima parte* 1. *Oxon'*, becauſe they were *prompti & parati* at home to defend the County. *Rot. Sco.*

But the practiſe, as it ſhould ſeem, not agreeing with the Right in the Parliament, 20 *E.* 3. *N.* 12. The Commons complain, that Commiſſions had iſſued out of the *Chancery* to charge the People

An. 1637. in this particular, and otherwiſe without conſent in Parliament, and pray, that they may diſobey ſuch Commiſſions: The Anſwer is, That the Commons had heretofore promiſed to aſſiſt the King with their Bodies and Goods, in the War with *France*, and likewiſe for the defence of the Realm; and that the great Lords conſidering the neceſſity, as well for defence, as the Kings Wars, agree thereto, and yet promiſeth, that this which is done *en cel neceſſity ne ſoit treyt en conſequens n'enſample.* My Lords, this is a full declaration of the Right, even when for the defence; and yet ſome practiſe to the contrary, before the making of the Stat. of 25 *E.* 3. procured the Complaints in this particular in the Parliament, 21 *E.* 3. *N.* and 22 *E.* 3. *N.* *Pat.* 8 *H.* 3. *M.* 4. *Falcaſius de Brent. Inimicus publicus & excommunicatus*, that impriſoned the Juſtices Itinerants in *Bedford*-Caſtle, and held the Caſtle againſt the King, the King, *propter graves & manifeſtos exceſſus quibus Regnum multipliciter perturbavit*, beſieged the Caſtle; and whereas the Clergy, *de mera gra'*, had granted the King an Aid for the doing thereof, *Rex nolens gratiam ſit nobis exhibitam ad debitam retorqueri*, declared as much by the Letters Patents.

My Lords, it is here declared, that the King cannot, *de debito*, or *de jure*, take any Aid againſt the Subjects wills for beſieging a Caſtle held againſt the King by a publick Enemy.

Rot. inquiſitionem 3 *E.* 1. *Ro.* 4. *Kent' coram auditoribus querelarum poſt Bellum Eveſham & Pacem proclamatam:* The Caſtle of *Tunbridge* being held againſt the King, the Hundred at *Feverſham* was Seſſed at 15 *l. pro Inſultatione* of the Caſtle; the Jury preſent this as a grievance, which the Juſtices would never have received, nor ſuffered to be entred into the Roll, if this Seſs might have lawfully been made. My Lords, this Caſtle and Hundred they were in the ſame County; and being before the Stat. of *Wincheſter*, they are not compellable to beſiege the Caſtle; and if they were compellable to go in Perſon, and with Arms, yet no Seſs could be laid for the doing thereof.

My Lords, I ſhall only offer to your Lordſhips conſideration the *Scotch* Roll of 20 *E.* 3. *M.* 6. the Wardens of the *Marches* of *Scotland* were to appoint *exploratores & vigiles*, which were to eſpy out, and to give notice of the Enemies Intendments, by the Commiſſions in *H.* 4. *H.* 5. *&. H.* 6. time, they were *ad explorandum pro defenſione Regni & partium ſumptibus Incolarum*; but how? only *de aſſenſu & voluntate ſua prout fieri conſuevit.*

My Lords, I am now come to that of Victuals, the Stat. of 14 *E.* 3. *Cap.* 9. is, That for the Wars the proviſion for them ſhall be done by Merchants without Commiſſion, or other Power from the King, or any other Power, that the People may not be compelled to ſell againſt their wills: That this was as well for defenſive as offenſive Wars, and that this was not *Introductivum novæ Legis*; but ſo at Common Law is, by your favour, clear.

Pat. 29 *E.* 1. *M.* 16. *&* 19. *ad reprimendum malitiam Scotorum*; and to repel them, Commiſſions to moſt Counties to provide Victuals; and becauſe they refuſe, therefore the King there offers them ſecurity.

Bra.

13 *Caroli.*

Bra. Trin. 8 *E.* 2. *Ro.* 99. Victuals brought *mixtum forum patriæ pro munitione Marchiæ Scotiæ*, and their payment upon Suit adjudged.

Sometimes at *Newcaſtle*, ſometimes at *Carliſle*, at *Barwick*, as the Wars required, were the Store-houſes where the Victuals were laid, and Clerks of the Store to iſſue them: That the King not only paid for the Victuals, but likewiſe for the Houſe where they were laid in, appears *Bra. Tr.* 2 *E.* 3. about the end of the Roll, *Dorſo.* The Burgeſſes of *Newcaſtle* complain in Parliament, that their Houſes had been taken up long time for the keeping of thoſe Victuals; this was tranſmitted to the *Chequer* by Writ, which ſays, *Volumis eis pro domibus ſuis prædictis ſic occupatis ſatisfacere prout decet, & prout juſtum fuerit, & prout temporibus Progenitorum noſtrorum fieri conſuevit.*

My Lords, in the next place.

3. For the defence, when thoſe that ſerved with Horſe, *ad vadimonia Regis*, they loſt their Horſes in the Service, the owners did not bear the loſs, but they were always paid for it by the King; and therefore when they firſt entred into the Service, the Marſhal, or elſe the Warden of the *Marches*, who had the command of them, did ſet down in a Roll the Horſe of each Man, and their marks, and price of each Horſe, to the intent the owner, by this Certificate, might be aſſured of the full value to be paid him in caſe the Horſe was loſt. This appears *Clo.* 34 *E.* 1. *M.* 16. where the *Cuſtodes Marchiæ Scotiæ*, aſſigned *pro defenſione Marchiæ*, were to do it.

Bra. Irrot. M. 26 *E.* 1. *Rot.* 105, 106. The *Scots* having entred the Realm, divers *homicidia, incendia, & alia facinora perpetrantes*, there the Horſes, *ad vadimonia*, for defence, were to be appriſed.

Secunda pars Pat. 10 *E.* 2. *M.* 7. the ſame, and the *Scottiſh* Roll of 21 *E.* 3. *M.* 7. the ſame *prout Moris eſt*: That upon Suit the Subject hath recovered accordingly of the King, are many Caſes; I'le inſtance but in two or three, *M.* 24. of *E.* 1. *Ro.* 16. *Dor. Ro. Heigham*, recovered 20 Marks in the *Chequer*, *pro Equo perdito in conflictum Dover, inter homines Regis per hominum illar', & Inimicos Franciæ*; at which time the *French* had aſſaulted *Dover*, and burnt the Priory, and a great part of the Town. *Bra. Hill.* 17 *E.* 2. *pro reſtaur' trium Equor' perditor'*, at *Carliſle*, 9 *E.* 2.

Com' p. 9 *E.* 2. *Richard Walgrave* recovered for Horſes loſt at *Carliſle.*

Co'ia Hill. 2 *E.* 3. for Wages, *pro reſtaur' Equor' perditor'*, and burying the dead when the *Scots* had entred the Realm at *Stanop*-Park, for one Troop ..... *l.* allowed *habita inde deliberatione*, and adjudged.

4. For Caſtles, the Ancient Forts and Bulwarks for defence, the Stat. 14 *E.* 3. *Cap.* 19. ſays, That Merchants, without any Commiſſion or Power from the King, ſhall victual them ſo, that the People may not be compelled to ſell againſt their will. That Stat. in this Particular is not *Introductæ Novæ Legis*, is cleared by the Caſe *Tr.* 16 *E.* 1. *Ro.* 3. *Wiltes* in a little Roll, and in a great Roll of the ſame Year *Ro.* 19. when in *Treſpas*, by *John Eveſhorne* againſt *John Flavel, quia blada & garbas ſuas cepit*: The Defendant ſays, he was Conſtable of the Kings Caſtle *of the deviſes*, and that

An. 1637. he had in *præceptis præd' Regno Regis quod munire faceret*, the Castle *de mortuo Stauro ut de bladijs*, and other things; and that by vertue of this Writ he took an Enquest to know where he might have best laid these Victuals, *ad minus nocumentum patriæ*, and the Jury found that the Defendant might take it *ad minus nocumentum patriæ* of the Plaintiff, and that he came to the Plaintiffs house, and offered to buy *pro denariis & ad justum Regis*; and that because the Plaintiff refused to sell, he departed from his house: Issue joyned, and found against the Defendant, and 100 Marks damages given the Plaintiff, adjudged.

There were always anciently *Visores operationum* appointed, and they upon Oath certified, that they saw the Kings Money expended, which was demanded in the *Chequer*; and for Victuals, as they were bought with the Kings Money, so when they grew stale, that the danger was passed, they were sold again to the Kings use.

My Lords, that even in times of Wars, when the Frontier Towns and Castles were besieged. and the Borders invaded, that even the King did bear the Charges, appears by the allowance in the *Chequer*.

Trin. 27 *E.* 1. *Rot.* 47. *pro tuitione Castri*, now Castles, *contra Scotos qui hostiliter Regnum in partibus illis invaserunt.*

M. 31 *E.* 1. *Rot.* 2. The *Scots* besieged *Carlisle* 26 *E.* 1. and allowance now, *de exitibus Castri*, which was the Kings.

And *M.* 27 *E.* 1. 75. 1000 *l. pro quatuor ingent.* and *Trin.* 32 *E.* 1. *Ro.* 11, 12. *visus compot'*, 28 *E.* 1. *Rot.* 71. *prout Justum, quia Scoti contra Regem hostiliter insurgunt*; therefore *de Thesauro Regis Bawricke* fortified, *& Ro.* 78. *Dorso*, it appears that the Sheriff of *York-shire* had carryed 40000 *l. de Thesauro Regis* to those Parts.

Bra. Irrot. Pas. 34 *E.* 1. *Ro.* 72.

Bra. in 17 *E.* 2. *propter frequentes egressus Scotorum in Regnum*; the Castle of *Sandall*, at the Kings Charge, fortified, *& prout justum*, allowance; and *Br'ia Hill.* that year the Castle of *Horney*, for the same cause, the *Scots* having entred *circum prædictum Castrum, & apud Lancastre.*

4, *&* 5, *P. & M. Dyer.* 162. *b.* One in execution for debt in the Fleet, who, as the Book saith, was a man very necessary for the Wars, and it was moved by the Kings Attorney *per Mandatum Consilii*, if the Prisoner may be licensed by the Queen with a Keeper, to go to *Barwick* for the defence of it or no, and it was held by all the Judges of *B. R.* and *C. B.* that the license was not good, and 13, *&* 297. the same cause cited accordingly to have been the opinion of all the Judges.

5. My Lords, For a Prisoner taken in defensive Wars, and likewise for Pledges and Hostages for the securing of peace, that the charge of the maintenance of these, and the carrying them to the several places of their abode, have been always born by the Kings of the Realm, the allowances in the Chequer are so frequent as that I intend to cite none of them, save that for the Prisoners taken in conflict at *Dover* before spoken, of which is *Co'ia Hill.* 4. *E.* 2. *Ro.* 22. *Dor.* neither do I find it at any time stood upon save only 8. *E.* 2. amongst the *Bra. Trin.* 8. *E.* 2. *R.* 88. *Dor.* but the reason is because that after the death of *E.* 1. in the commission of granting

granting the Conſtable Ships of the Caſtle, no mention was made of the Priſoners, and yet even in that caſe upon a *Monſtravit Regi*, a Writ of Privy Seal is awarded for allowance, *prout Juſtum.* 13 *Caroli.*

My Lords, If in all theſe particulars of Souldiers, Victuals, Caſtles and Forts, Horſes, Priſoners, and Pledges, in caſe of defenſive Wars, the main ſupports of them, the Kings could not tax their Subjects, but have born the charge thereof themſelves, I ſhall thence offer it to your Lordſhips to be ſo for the defence in general.

My Lords, The allowance in the Chequer in all the particulars before-mentioned are frequent in the caſe of Mines in the *Co'ia.* The profits of Silver-mines that they upon an account in the Chequer were always anſwered to the King, was one of the principal Arguments for the Kings right unto them, and there *fol.* 320. It's held that in all things that concern the Revenue of the Crown, becauſe they are there debated, that the Records of the Exchequer ſhew not only the courſe of the Court, but what the Law is throughout the Kingdom.

My Lords, That in Caſes of War and Embaſſies, that the Chequer made no allowance what great Conſideration appears by the Stat. of 5. *R.* 2. *Cap.* 10. that they were not allowed by the Court till the Partie brought the Great Seal, or the Privy Seal for it.

And if a Writ of allowance come to the Chequer before the Court had examined the account, yet they never made allowance till the Court had examined it.

H. 25. *E.* 1. *Ro.* 22. *licet Bre' de Allocat' pendeat de dns'* 1000 *l. allocandis; tamen ante allocationem factam oportet ſcire ſi pecunia illa ad opus Regis devenit, & quod ipſi doceant ſuper hoc Curia Regis*, and *Trin.* 25. *E.* 1. *Ro.* 47. the allowances never ingroſs, but by particulars.

My Lords, The next proof that I ſhall humbly offer unto your Lordſhips, is in that of borrowing of money by the King for the defence for the Realm, which, as they have uſually done it, ſo it is as clear that not only upon Petitions, at their own pleaſures, and upon grace, but likewiſe upon ſuit they have been adjudged ſo to do in the ordinary Courts of Juſtice.

Co'ia p. 31. *E.* 1. *Ro.* 41. 149 *l.* borrowed of *Henry Sampſon pro defenſione totius Regni*, and repayment ordered *M.* 10. *E.* 2. *Ro.* 160. *Grandes Pecuniæ ſummas* borrowed by the King for that purpoſe, order for repayment.

Bra. M. 3. *Eliz.* 3. *Circa prin. Ro.* 664 My Lords, in this particular I ſhall cite but this one Caſe *Com. p.* 29. *E.* 1. *Ro.* 18. the King, *pro urgentiſſimis Regni negotiis & defenſione totius Regni*, had ſeized divers ſums of mony in all the Abbies, and Cathedrals, and other Religious Houſes within the Realm, *& quo citius commode poterit* promiſed payment in the Parliament 29. *E.* 1. at *Lincoln* the King is petitioned for repayment of theſe monys, who promiſeth payment, *Ita quod Regis Conſcientia ſuper hoc exoneratur*, and there and *Ro.* 19. divers ſums adjudged to be paid, and *p.* 9. *E.* 2. *Ro.* 65.

My Lords, I ſhall thus humbly offer this to your Lordſhips, that if the King had conceived, that when himſelf wanted money for the defence that he might have charged his Subjects, he would never have made this anſwer of repayment *ad exonerandum Conſcientiam;*

An. 1637.

tiam; for then in Equity and in Conſcience the Parliament ſhould have taken care for the ſatisfaction of theſe debts, or ſhould at leaſt wiſe have diſtributed part of this Charge upon all his Subjects, neither ſhould the Parties have had full ſatisfaction for all their debt, but have born part themſelves.

By the Statute of 35. *H.* 8. *cap.* 12. the King for the defence of the Realm had divers great loans made to him; now likewiſe there being cauſe of new defence againſt *France* and *Scotland* in aid of the King, they releaſe theſe aſſurances given by the King, and likewiſe releaſe to the King all Suits and Petitions concerning thoſe monys. My Lords, it will need no application; theſe were general Loans, and for the defence.

My Lords, I am now come to the other Authorities for proof thereof which is by the Acts of Parliament.

My Lords, before I come to the Acts of Parliament themſelves, I ſhall humbly offer to your Lordſhips the Summons —— and preparatives to them.

Firſt, The *Ardua Regni Negotia*, for which they are called, are principally *defenſionem concernentia*; that theſe are not the way and manner of the defence and their evidence therein, but the ſupplies and aides for this defence I have preſented cleer Proofs, to your Lordſhips before. That theſe aids cannot be raiſed without their conſents is ſtrongly inferred in this, that the Knights of the Shire are to have *plenam & ſufficientem authoritatem pro ſe & communitate Comitatus prædicti ad faciendum & conſentiendum* to the things in *negotiis antedictis*: if this might be done without the conſents of the Commons, this in the Writ would be needleſs; but that this cannot be done without their conſents is cleared by the words following in the Negative, *Ita quod pro defectu poteſtatis hujuſmodi dicta negotia infecta non remaneant quoviſmodo*. This, my Lords, is the conſtant form both of the Modern and all the Ancient Writs, and ſhews cleerly that the Commons without their conſent in Parliament are not chargeable to a defenſive War.

In the Acts of Parliament I ſhall begin with that of *William* the Conqueror the fourth of his Reign, which beſides that it is cited in the Preface to the eighth Report and Inſtit. *fol.* 75. *b.* and by *Ingulph*, *fol.* 519. and Mr. *Selden* in his *Eadmerus p.* 171. it's likewiſe of Record and enrolled in the Red book in the Chequer.

The words are thus.

Volumus & firmiter præcipimus & concedimus, quod omnes liberi homines totius Monarchiæ Regni noſtri habeant & teneant terras ſuas & poſſeſſiones ſuas, bene & in pace libere ab omni exactione injuſta & ab omni tallagio, ita quod nihil ab iis exigatur vel capiatur niſi ſervitium ſuum liberum, quod de jure nobis facere debent & facere tenentur, & conceſſum jure hæreditario in perpetuum per commune Conſilium totius Regni noſtri prædict.

My Lords, The words by reaſon of the disjunctive, *& ab omni Tallagio*, are plain, that the King ſhall not exact or take away any thing of any Free-man but what his tenure binds him unto, as in words, by reaſon of the generality of them, it extends to caſes to the defence of the Realm: that it doth ſo in intent, I ſhall endeavour thus to preſent it to your Lordſhips.

The

13 *Caroli.*

The Military Services before-mentioned for the defence of the Realm, they are by *Bracton* attributed to the Conquerors Inſtitution; for in his ſecond Book *fol.* 36. ſpeaking of them, he ſaith thus, *Secundum quod in conqueſtu fuit ad inventum*, *Plowden* in the Argument of *Thomas Treſham's* Caſe.

Means the Conqueror had to do it by reaſon of the many Attaindors of thoſe that took part with *Harold*, and after his death with *Edgar Ethling*. That he did it in a great part appears by *Math. Paris*, *fol.* 8. That he put all the Clergy, which before held in *Frankalmoigne ſub ſervitute militare*, to do ſervice *tempore hoſtilitatis*, and by the County Palatine of *Durham* and *Cheſter* in thoſe places of danger. In the Book of Knights Fees, in *H.* 2. time it appears by the Certificate, that they held ſometimes *de veteri Feoffeamento*, and ſometimes *de novo*. And by ſome of them it appears, that the Tenures *de Novo Feoffeomento* were before King *Stephens* time, and therefore it's probable that the *vetera* might be thoſe created by the Conqueror. The proviſion for Soldiers pay by Tenures was likewiſe of his inſtitution, as appears by that before cited out of the *Black Book*, *lib.* 1. *cap.* 27. That in *primitivo Regni ſtatu poſt Conqueſtum ad ſtipendia & donativa Militum*, out of Caſtles and other Lands, *in quibus agricultura non exercebatur pecunia numerata ſucreſcebat.*

The Policy and Proviſion of the Conqueror for the defence being by Tenures, when in this Act of Parliament he ſaies, *quod nihil ab eis exigatur vel capiatur, niſi ſervitium ſuum, quod de jure nobis facere tenentur*, as I humbly conceive, ſhews plainly that the Subject was not otherwiſe to be charged for the defence, nor further than by their Tenures.

This, my Lords, further appears by other parts of the Parliament, where ſpeaking of any thing of Charges that is to be done according to their Tenures, as that all *bene ſe teneant in Equis & Armis ad ſervitium ſuum integrum faciendum.* But in the next place ſpeaking of the defence, it ſaith that all within the Realm *ſint Fratres Conjurati pro viribus & facultatibus*, to defend the Kingdom and the Peace, *& ad judicium rectum, & juſtitium faciendum*, the coupling of the Defence with that of the Peace, and doing Juſtice, ſhews the perſonal care that all by their Oath of Alleageance ought to bear to the Common Peace and Good of the Realm.

The next Statute which I ſhall preſent to your Lordſhips, is that of *Runimead* 17 *Johannis*, the words are theſe, *Nullum ſcutagium vel auxilium ponam in Regno noſtro, niſi per Commune Conſilium Regni noſtri, niſi ad Corpus noſtrum redimendum*, and to Knight his eldeſt Son, and to marry his eldeſt Daughter: as in words this extends to the defence, becauſe all ſupplies for that purpoſe from the ſubject, they are only in *auxilium* or in *ſubventionem expenſarum* of the King, who, as before is proved, is principally bound thereto. So may the intent likewiſe further be gathered, firſt from this, that the word *Auxilium* is joyned with that of *Scutage*, which is for the defence: and likewiſe from this, that particular ſatisfaction is made by other parts of that Statute to thoſe that had been diſſeiſed by *R.* 1. and King *John*, which were things done only for the increaſe of their Revenue without ſhew of the common defence, that both before 9 *H.* 3. and afterwards 20 *E.* 1. this was

a Statute

An. 1637. a Statute and ſo accounted, I have before proved, and in the Book of 5 *H.* 3. it is called by the name of *Magna Charta, Sans addition.* So 37 *H.* 3. in that ſolemn Confirmation obſerved by *Math. Paris, pag.* 1155. this of *Runimead* is confirmed by the name of *Magna Charta*; and 5 of *H.* 3. *pag.* 1220. which I note only to this purpoſe, that of ſpeaking of *Magna Charta* this of *Runimead* is intended as well as that of 9 *H.* 3. as part thereof, and bodied both together; yet that neither of them were obſerved, either in King *John*'s time, and of *H.* 3 time our Hiſtories are full of it, and by the Popes Bulls of 12, *&* 13 *H.* 3. the Pope abſolving the King from his Oath in their Confirmation, doth it, becauſe as the words of the Bull are *Juramentum peccati vinculum eſſe non debet*; neither till after 29 *E.* 1. as I ſhall hereafter prove, were they at all obſerved in things concerning the Kings Prerogative.

The next that I ſhall cite, are the Statutes of 25 *E.* 1. and the Statute *de Talliagio non concedendo.*

That of 25 *E.* 1. *cap.* 5, *&* 6. the grevance is for Aides and Prizes taken through the Realm for the Wars, the King grants that ſuch Aides, Tasks and Prizes taken through the Realm for the Wars ſhall not be brought into any Cuſtom for any thing before done, be it by Roll or any other Preſident that may be found; and further grants, that for no buſineſs from henceforth that he will take ſuch manner of Aides, Tasks and Prizes but by the common conſent of the Realm, and for the common Profit, ſaving the antient Aides and Prizes due and accuſtomed. My Lords, although by the Coplative it is clear enough, that there muſt be common conſent, and common profit concurring; and although the ſaving of the antient Prizes and Aides accuſtomed might well enough have been ſatisfied in the Aid excepted in *Runimead,* and the prizing of Wines and Purveiance.

Yet to out theſe and all other ſcruples the Statute *de Tallagio* made afterwards for that purpoſe is general, That no Tallage or Aid ſhall be taken by the King, nor that any of his Officers ſhall take any Corn, Leather, Cattel, or any other Goods without the Conſent of the Party.

My Lords, To bring theſe Statutes to the thing in queſtion, that theſe things cannot be done, though for the defence, the times of the making of them, and the circumſtances concurring thereto, I ſhall preſent to your Lordſhips.

That of 25 *E.* 1. by the date appears was the 10*th* of *October* 25 *E.* 1. My Lords, the King the 12*th* of *Auguſt* before being at *Odimer*, ready to go over to *Flanders*, the Parliament being then ſummoned by His Letters Patents, *Rott. pat.* 25 *E.* 1. *m.* 7. taking notice of the Conſtables and Marſhals departure from the Court in diſpleaſure, and of the rumors of the People, that the King refuſed to Seal Articles ſent him for the common profit, for redreſs of divers grievances done to the People: for the grievances, he ſaith, that without thoſe things he could not have defended the Realm, and yet ſaith that he is ſorry for it, and prayeth that this may be his excuſe, as he that hath done thoſe things, neither to buy Lands nor Tenements, nor Caſtles, nor Towns, but to defend himſelf and the whole Realm, and that if he returned again he would have all know that he had an intent to amend all thoſe things, to the

13 *Caroli.*

the Honour of God, and the content of His People, and that he hath done much already, that if he dies in this Service, his Heir ſhall make amends.

Hereby it appears, that the grievances which procured this Statute, were for the Defence of the Realm; therefore from hence it follows, that the Aids and Taxes there mentioned were for the Defence; ſo likewiſe that the exception of the ancient Aids extends not to thoſe of the Defence, that being the thing wholly complained of. This Declaration of the King was the 12*th* of *Auguſt*; the *September* after, the King being at *Winchelſey*, theſe Articles are ſent to him, to which he deferred for the preſent to give His aſſent unto, becauſe His Council was not there; and ſo Sails over into *Flanders*. This Statute of 25 *E.* 1. is paſt the King beyond the Sea: The *Teſte Edwardo filio noſtro* at this Return, as appears by *Walſingham p.* 42. The King is deſired to confirm theſe Articles, which in *Walſingham p.* 40. are the ſame word for word, as in the Statute *de Tall.* which the King then deferred.

27 *E.* 1. they deſire it again, which the King doth with a *Salvo Jure Coronæ noſtræ in fine adjecta quam cum audiſſent Comites cum diſplacencia ad propria diſſeſſerunt*, ſaith the Author, *Sed revocatis ipſis ad quindenam Paſchæ ad votum eorum abſolute omnia ſunt conceſſa.*

That the Statute *de Tallagio*, was after that of 25 *E.* 1. is plain in this, by the Kings going over to *Flanders* without aſſenting to any Articles. In *September*, and the 10*th* of *October* following, as appears by that Statute 25 *E.* 1. it ſelf, it was made; and likewiſe by the Statute *de Tallagio* it ſelf, in the Kings releaſing all Rancor to the Earl *Marſhal* and Conſtable, who had moſt offended him, and that firſt preſented theſe Articles to the King.

My Lords, I ſhall add this only, as I conceive it, it will not be proved that this King, either before or after the making of this Statute, or any of His Succeſſors ſince, ever claimed this abſolute Power over the Subjects, as to lay Aids and Tallages upon them for the ſupportation of their own private Eſtate, abſtracted from the common defence or good. This King at this time, we ſee by His own Declaration, was far from it; this laſt Statute fully ſatisfied thoſe that deſired it; for as *Walſingham* ſaith, *ad eorum votum abſolute omnia ſunt conceſſa.* If therefore it extend not to that of Defence, I ſhall humbly offer it by what conſtruction of it our Anceſtors Judgments and Diſcretions will be freed from a great deal of cenſure that were ſo well contented with it.

My Lords, *Magna Charta* being confirmed at the ſame time when the Statute of 25 *E.* 1. was made; and both that and the Statute *de Tall'* being only Articles upon *Magna Charta*, they were all of them, as I conceive, intended in the ſubſequent, and ſo often confirmation of *Magna Charta.*

My Lords, the next is the Statute of 14 *E.* 3. *Cap.* 1. that the People ſhall not be compelled to make any Aid, or to ſuſtain any Charge but in Parliament. That this cannot be done for the Defence, will (as I conceive) be inforced from the words; for a great Subſidy having been granted, as well for the Wars on this ſide the Sea, that is for defence, as for the *French* Wars.

An. 1637. It's declared, that this ſhall not be drawn into example, and that out of Parliament, they ſhall not be compelled to ſuſtain any Charge; and then it is further enacted, That that Subſidy, and all the Profit of Wardſhips, Eſcheats, and other Profits of the Realm, ſhall be ſpent for the defence and ſafe-guard of the Realm, and the Wars in *Scotland* and *France* and not other-where: So that the Statute (as I humbly conceive) all put together, bears this ſence, that the Subſidies granted in Parliament, and the Wardſhips, being a fruit of the Tenures created for the defence of the Realm, and other Profits ariſing to the King by way of Prerogative are to be ſpent for the defence of the Realm, and the Kings other Wars; but that no Aid or Charge for any of theſe can be laid upon the Commons without conſent in Parliament.

My Lords, that the practiſe of this King, I mean *E.* 3. was contrary to the Statutes, and that they were not kept, appears by the Parliament Roll 15 *E.* 3. *N.* 9. the next year after, where the Commons ſhew, that their goods were ſeized, and their Bodies impriſoned without any Suit commenced againſt them.

My Lords, the next which I ſhall cite are the Statutes of 25 *E.* 3. and 1 *R.* 3. againſt Loans and Benevolences, which I ſhall humbly offer to your Lordſhips on this ground.

Ad eaq; frequentius accident ad aptantur Leges.

As for my part, I have ſeen no general Loans or Benevolences, but they were for the Defence: So I conceive, if they were any otherwiſe, they are but few in reſpect of the others: The Common grievances therefore being by Loans and Benevolences of that nature. Theſe Statutes, I conceive, were made againſt them; for theſe not being within the words of any of the former Statutes; as therefore the Kings might with the more colour put them in practiſe, ſo, on the other ſide, being equally as dangerous to the Subject, becauſe of the diſpleaſure by denial procured the Statutes. That Loans for Defence were after 25 *E.* 3. counted unlawful, appears by *Walſingham*, *P.* 179. that 44 *E.* 3. The King *ſiniſtro uſus Conſilio magnus Summas Pecuniæ* of all ſorts, *mutuo petijt aſſerens quod in defenſionem Eccleſiæ, & Regni illas expenderet*, but that the People would not lend.

My Lords, the next which I ſhall cite is direct in words, which although it be not an Act of Parliament, yet the weight of the Authority, by the putting of it, will appear, it's the ſecond part of the Parliament Roll 2 *R.* 2. *N.* 3, 4, & 5. the Kingdom being beſet with the Enemies of *France*, *Spain* and *Scotland*, who all three by Land and Sea invaded the Realm. The Privy-Council not willing in a thing ſo much concerning the Realm to take the whole carriage of it upon themſelves, not deſiring ſo ſoon to call a Parliament, but a little before being diſſolved, they therefore reſolve to aſſemble a great Counſel of moſt of the Biſhops, Lords, and other great Men, and Sages of the Realm, who meeting, and finding the abſolute neceſſity of a preſent preparation for defence, and that the King wanted Money to do it; what their full and final reſolution in this caſe of extremity for the Defence was, I ſhall read the words of the Roll; they ſay, *Pur Concluſion final q'ils ne poient ceſt miſchief remedier ſans charger les homines de Realm quel charge ne pait de fait ne grant ſans Parliament.* And therefore the

the neceſſity being urgent, theſe great Men lend Money for the preſent, which adviſe preſently to call a Parliament, as well to provide for the re-payment of this Loan, as for a further Supply. It's true, my Lords, this King at this time was within age; and it's as likely that many of His Council had been likewiſe: *E.* 3. His Grandfather, His Privy Council, who well knew His Prerogative, and extended it as far, by reaſon of His great Wars, to the charging of His Subjects, as any before or ſince His time; and that not only the Privy-Council, but likewiſe, as the Record is, almoſt all the Prelates, as well Abbots as others, Dukes, Earls, Barons, Bannerets, and other Sages of the Realm, which, as I conceive, were the Judges, ſhould be ſo far from putting this in execution, as that they declare in the negative, upon full deliberation, that the Commons cannot be charged herein but in Parliament. Themſelves likewiſe thereby being to undergo a preſent Charge, by lending to ſupply that neceſſity. The Authority muſt needs be weighty, that upon ſecond thoughts afterwards the ſame was declared in full Parliament by the Lord Chancellor, and ſo afterwards entred upon the Roll without any qualification at all, adds further to the Authority. 13 *Caroli.*

Ultimo Februar' 3 *Caroli*, a Commiſſion iſſued to divers great Lords, the end, as appears by the words, was for aiding the Kings Allies beyond Sea, and for the defence and ſafety of the Kingdom and People. They were by the Commiſſion to raiſe Money by Impoſition or otherwiſe, which, without extream danger to the King, Kingdom, and People, can admit no long delay, wherein Form and Circumſtances are to be diſpenſed with, rather than the ſubſtance loſt. This, my Lords, was a Commiſſion to tax the Subject in time of neceſſity for Defence. The laſt Parliament this Commiſſion, as againſt the Law, was condemned by both Houſes, and cancelled in His Majeſties Preſence, and ſent ſo to be viewed by both Houſes.

Philip Commines, in his fifth Book *Cap.* 8. obſerving the ſame above all others, commends the policy of the *Engliſh* Laws and Government. And both he and *Bodinus*, *de Republica lib.* 6. *Cap.* 11. And *Paſquerus*, Advocate-General in the King of *France* his Chamber of Accounts, in his ſecond Book *Cap.* 6, & 7. all ſhew this likewiſe to have been the ancient Law of *France*; and how the Practiſe comes to be otherwiſe, there *Paſquerus* ſhews at large; and that the King ſometimes endeavouring the contrary, found ſo much difficulty, that they afterwards, eſpecially *Charles* the 5*th*, procured by the conſent of the three Eſtates theſe Aids for Defence to be granted for three or four years together; and that this conſent of the People at firſt was that which afterwards gave the occaſion to the King to take it without conſent. And therefore he concludes, that *France* being *un Relme de conſequens*, that they muſt not eaſily promiſe any thing, though but once, which they will not be willing to permit for ever.

My Lords, I have now done with the Proofs. In the next place ſhall endeavour an Anſwer to ſome few Objections that are obvious both from Reaſon and Authority.

1. For thoſe of Authority, 13 *H.* 4. 14, 16. *Gaſcoignes* opinion, That the King may Charge His People without Parliament, to a

An. 1637. thing that is for the common Profit of the People; the thing he applies it to, is, that the King may grant Pontage and Murage.

My Lords, that the King may grant both theſe, and Tolls upon erection of a new Fair or Market, and Panage, I ſhall not deny.

The Anſwer I ſhall give to them is; firſt, That theſe Grants do charge *venalia* only, that is Goods carryed to thoſe places for Merchandize; but that any Tax may be laid *Secundum ſtatum & facultates*, either upon the Hundred or County, I ſhall humbly deny it.

It is true, my Lord, by the Conquerors Laws it appears, that Cities and walled Towns were for the defence of the Country; and therefore by thoſe Laws no Fair nor Market might be kept but in *Civitate*, and *Burgis Muro Wallatis*; and therefore in Doomeſday, in all ſuch its found, that there are ſo many Manſions *murales*, which by their Tenure, when need was, were bound *ad murum reficiendum*.

That no other Land that holds not by that Service is liable, appears by the Parliament Roll, 1 *R.* 2. *Secunda pars N.* 76. where all the Cities and Burroughs of *England* petition, that in this time of danger, they not being able with their Merchandizes to do it, that others that had Land within the Town might be made Contributaries, *avant ceo heure out port nul charge*.

The Anſwer is, that all, according to their Tenure, as they have anciently done, ſo ſhall they ſtill. And if this might be done, there would have been no need of the Statutes of 2 & 3 *P. & M. Cap.* 1. 23 *El. Cap.* 4. for giving power to tax Men *Secundum ſtatum & facultates* to repair Caſtles and Towns within 20 Miles of *Scotland*.

For the Tolls, and Pontages, and Panaiages, as there is a great deal of equity for thoſe that receive benefit by bringing their Goods to the Markets, and over the Bridges, ſhould contribute to the Charge that may maintain the Market-places, and the Bridges; ſo neither are theſe compulſary, but voluntary Charges; for as no Man pays but he that receives the benefit, ſo is none compellable thereto, but is let to his liberty.

Neither is there any colour in reſpect of the Town it ſelf, to whom the Murage and Panage is granted, why they ſhould not be charged, becauſe the Grant cannot be but at their own Suits; for if it be not at the Suits *tot Commoditates*, the Grant is void, and to be revoked, as appears *Pat.* 5 *E.* 3 *ſecunda pars M.* 20.

It may be further objected, That as the Town hath intruſted the way and manner of managing of the Defence wholly, and independently unto His Majeſty; ſo likewiſe, if Aids and Means, as the *Cauſa ſine qua non*, the other cannot be effected. And therefore His Majeſty ſhould not be dependent upon the Parliament for them.

My Lords, The meer relation between His Majeſty and the Parliament, that they are but one Body, hath been preſented to your Lordſhips, and that His Majeſty did exerciſe the *Summum imperium*; there *Bodine lib.* 1. *Cap. ult.* ſays, *ejuſdemq; eſſe poteſtat' tributa nova imponere, cujus eſt Legem ferre*; but that the *Legis la-*

tive

tive power is not in His Majeſty out of Parliament, will be granted. 13 *Caroli.*

2. The Subjects Intereſt being as meerly concerned in the Defence, as His Majeſties, there's no cauſe why they ſhould not be willing to proportion the Aid to the occaſion; ſo neither can the Law preſume otherwiſe, which hath ſo high an opinion of the judgment and integrity of this Court; that as it is in the *Comen'* 398. it's unlawful for any Man to conceive any diſhonourable thing of it.

My Lords, my laſt Anſwer hereto is, That by the Law the King hath as independent a Power to make a forreign War, as well as defenſive. It will, I conceive, be granted, that His Majeſty in this Caſe hath not power to tax the Subject; for then it would follow, that as well as to the conquering of the next adjacent Realm, ſo of all *Europe*, the Subject ſhould be at the Charge, and yet the Land conquered ſhould be only His Majeſties; and yet upon this ground, in reſpect of the equality of the Powers, it might be done as well there as here.

Neither, my Lords, as I humbly conceive, doth this only anſwer the Objection, but returns upon the other ſide for His Majeſties Highneſs Power to make offenſive War, which for the moſt part cauſeth a defenſive; by this means that ſhould be in His Majeſties Power to cauſe a defenſive War, and to tax the Subject for the maintenance of it.

My Lords, The laſt Objection whereto I ſhall endeavour an Anſwer, ſtands thus; The Parliament is a great Body, and moves ſlowly, and that the cauſe may be ſuch, that the Kingdom may be loſt before the Parliamentary Supplies come.

My Lords, how the means of the effecting ſo ſudden, and ſo great a ſurprize can be ſo ſecretly carried, I ſhall not examine it in reaſon, but ſhall hereto humbly offer theſe Anſwers.

That the Services whereby the Law hath provided for the Defence both at Land and Sea, they have the ſame mention of time with the Parliamentary Supplies upon the Summons of the Tenants by Knights-Service *ad exercitum*; and of five Ports 40 days warning is to be given as for the Parliament.

And ſo is it probable from that of *Mould.* 13 *E.* 1. it was for others that held by Sea-Service.

And anciently the Summons, *ad exercitum*, to the Ports, and for the Parliament, went out much about the ſame time, that the Parliament might aſſeſs the *Eſcuage*; and that in caſe the Tenures, and other Revenues, were not able to maintain the War, that the Parliament might provide for further Supply, as appears 28 *E.* 1. *M.* 15. 31 *E.* and 34 *E.* 1. *M.* 15, 16. *& oportet neminem legibus eſſe ſapientior'*.

The Tunnage and Poundage, when granted for life, was, that the Kings might have always a Sum of Money ready upon ſuch ſudden occaſions.

In the Parliament, 4. *R.* 2. *N.* 42. the Commons deſired payment of *E.* 3*d*'s Debts, that they might be encouraged to lend the King in Aid of the Realm. If a ſudden cauſe of neceſſity ſhould fall out; the Anſwer is, that it ſhall be done *ſolonq; le Petition.*

My

An. 1637.

My Lords, by this it appears, that this Objection was not then taken to be of weight; many of the Loans are in *neceſſitatis Articulo.*

The Authorities that further anſwer this Objection are great, and full in Point.

The firſt is that of the Parliament Roll of 2 *R.* 2. before cited; the buſineſs of Defence could not ſtay ſo long as for a Parliamentary Supply, yet agreed, that the Commons without Parliament could not be charged; and therefore the ſame Men that give the judgment preſently lend Money for that purpoſe.

In the Statute of 31 *H.* 8. for Proclamations, the cauſe of the making of the Statute is expreſſed in theſe words; Conſidering that ſudden cauſes and occaſions fortune many times, which do require ſpeedy remedies, and that by abiding a Parliament, in the mean time might happen great prejudice to enſue to the Realm: Therefore the Kings Proclamation is by that Act made equivolent to an Act of Parliament, but with a full exception of their Lands, Goods, and Chattels, which as it ſhews, that before, by the Common Law, the Kingdom could not, in Caſes of Exigency, that could not ſtay for a Parliament, take or ſeize their Goods; ſo were they careful ſtill to preſerve this Right.

My Lords, after this Statute of 31 *H.* 8. the Maxime of *Juſtinian* was true in *H.* 8. as of the *Roman* Emperors after the *Lex Regia,* whereby the People transferred their ſuffrage to the Emperor, *quod principi placet Legis vim habet*; ſo at that time was that other as true on the Subjects part here, as there in the digeſt, *Lege* 10 *de regulis juris quod meum eſt non eſt univerſitatis, & quod noſtrum eſt ſine facto noſtro ad alium transferri non poteſt.*

The 7 *Pertica* of *Spain, tit.* 1. *Pertica ſecunda,* give ſomething more to the King; for He may take from the Subject *pro neceſſitate Reipublic' dato primus tali caſu Domino rei bona lambia ejuſdem, vel majoris precij bonorum virorum arbitrio*; He may in this Caſe take, giving a Pawn to the Subject for the aſſurance of a future full ſatisfaction.

Livy in his 20 Book, *Cap.* 35. *Bodine* in his *6th* Book, *fo.* 655. affirms, That when *Hanibal* had put *Italy* and *Rome* it ſelf, unto ſo great hazard; and that there was not Money left in the common Treaſury, that yet the Senate, without their conſent could not charge the People; but that *unuſquiſq;* of the Senate, *mutuo debit aliquid in uſum publicum.*

My Lords, the laſt Authority for the anſwering this Objection, and clearing of the whole buſineſs, is the Commiſſion for the Loan in the *Weſt.* 2 *Car.* 4. *Pars Pat.* the words are theſe, Great and Mighty Preparations, both by Sea and Land, did daily threaten the Kingdom, that the ſafety and very ſubſiſtance of the King and People, and the common Caſe of *Chriſtendome,* were in apparent danger of ſuffering irreparably, that the Kings Treaſure is exhauſt, and the Coffers empty; that the buſineſs of Supply cannot endure ſo long delay as the Calling of a Parliament: and inquiring into all means juſt in Caſes of ſuch unavoidable danger: A King is now reſolved to borrow of the Subject, to enable His Majeſty, for their ſafety, and promiſeth re-payment.

My

13 *Caroli.*

My Lords, the borrowing of Money only is the thing required, that is, for the Defence the King had no Money left, the Exigency ſuch, that it would not ſtay for a Parliament; this Commiſſion afterwards in the Parliament 3 *Car.* was queſtioned, upon debate adjudged by both the Houſes of Parliament to be void in Law, by the Petition of Right preſented ſo to the King, His Majeſty denies it not. My Lords, from this Objection of ſudden danger I come to the next, which is the third thing before offered to your Lordſhips, which is an admittance that the damage ſometimes may be ſuch, that the Subjects Goods without their conſent may be taken from them; for as propriety being both introduced and maintained by humane Laws, all things, by the Law of Nature, being common; there are therefore ſometimes like the *Philiſtines* being upon *Sampſon*, wherein theſe cords, they are too weak to hold us, *neceſſitas enim*, as *Cicero* ſays, *Magnum humane in becillitatis patrocinium omnem legem frangit*, at ſuch times as propriety ceaſeth, and all things are again reſolved into the common Principals of Nature.

Theſe times, as ſometimes they are only in *inſtanti*, and concern but ſome few, as in Caſes of killing one another in a Mans own defence, pulling down Houſes in a common Fire, making of Forts upon other Mens Lands, or with their Goods, upon ſudden Aſſaults; ſo ſometimes they are longer in continuance, and larger in extent, and concern the whole Kingdom, as it is in times of War, *quando agitur pro aris & foꝛcis flagrante bello.*

And as on the Particulars before-mentioned, which are but for a ſhort time, and that concern ſome few only, the Law hath no power for that time, nor on any times any property; ſo in the latter it loſeth this power for a longer time, and over all.

A Diſſent upon Diſſeiſin in time of War takes not away the Entry of the Diſſeiſee, *Litt' Sei'* 412. no plenary after the ſix Months barrs not the Patron of his *Quare Impedit*, upon a Preſentation in time of War, 43 *E.* 3. *Q. Imp.* 135. *W.* 31.

And in a Writ of Right, where the Seiſin makes the Title, the taking of Eſplees muſt be alleadged to be done *tempore Pacis*, the Law allowing no Eſtate in ſuch times, but calls it an occupation in time of War, *Litt. Sei' fo.* 12.

And as *inter arma leges ſilent*, ſo that of *Brac' H.* 4. *fo.* 240. that *tempus guerr' eſt tempus injuriæ* is likewiſe true; for after the War is ended, the Law, as not having any conizance of things then done, gives no remedy for wrongs in that time ſuſtained, as the Caſe is adjudged in the Roll of Rent, 7 *E.* 1. *inter placita de querelis Willielmum Parleton queretur de Petro Rardinum quod ipſe die Mercurie ante factum St. Tho.* 46 *H.* 3. came to the Town of *Cleve*, and took of the Plaintiffs Goods three Oxen, four Cows, and three Heifers, and yet detains them; the Defendant alleadgeth the Pardon of *H.* 3. of *omnes tranſgreſſ' factas ratione turbationis tunc in Regno exiſtentis*, and that it was *tempus guerr'* when the Goods were taken; the Plaintiff replies, That the King can pardon only offences done to himſelf, *& non tranſgreſſionis aliis illatas*, the Plaintiff rejoyns that *tempus illud* was *tempus guerr'*, *& non tempus Pacis*, and upon this the Iſſue is joyned. The Jury find, that when the Defendant took the Goods, *fuit tempus Belli, & non tempus Pacis*; and therefore it was adjudged for the Defendant.

Tempus

An. 1637.

Tempus Belli, when property ſeizeth, is not upon every inteſtine or defenſive War; but only at ſuch times when the courſe of Juſtice is ſtopt, and Courts of Juſtice ſhut up; and that this is that *Tempus Belli* is the Inſtitutes *Sec.* 412. *p.* 39. *E.* 3. *B. R. Ro.* 49. the Attainder of Treaſon of *Thomas* Earl of *Lancaſter* reverſed the Error aſſigned, *quia tempore Pacis maxime cum per totum tempus predictum Cancellariæ & aliæ placit' Cur' Domini Regis aptæ fuerunt, & in quibus Lex cuicunq; fiebat prout fieri conſuevit; nec predictus Dominus Rex in tempore illorum cum Rex illis explicatis equitavit.*

That there were greater Armies a foot on both ſides in this buſineſs, when the Earl was taken at *Borowbrigge*, our Hiſtories are full; but yet it was not that *Tempus guerræ* intended by the Law, becauſe the Courts of Juſtice were open, and the King, with Banners diſplayed, was not in Perſon in the Field.

My Lords, in theſe times of War I ſhall admit, that this Writ is legal, and not only His Majeſty, but likewiſe every other Man that hath Power in his Hands, may take the Goods of any within the Realm, pull down their Houſes, or burn up their Corn, to cut off Victuals from the Enemy, and do all other things that conduce to the ſafety of the Kingdom, without reſpect had to any Mans Propriety.

12 *H.* 8. 2. *Br. Trans'* 406. 8 *E.* 4. 23. That in ſuch times a Subject may make a Bulwark in another Mans Land, and that the Laws already eſtabliſhed are ſilent at ſuch times for any Law to be made: And although in that foreſeen and lingring War of *Hannibals*, whereof I have before ſpoken, the Senate could not charge the People; yet when there was a *tumultus Gallicus*, that is, when the *Ciſalpini*, their Neighbours, on the ſudden (as ſometimes they did) aſſaulted the City; by the ſame Author the Caſe was otherwiſe.

My Lords, beſides this ſudden and tumultuous War, which ſhuts the Courts of Juſtice, and brings His Majeſty in Perſon into the Field, and wherein Propriety ceaſeth: The Law likewiſe takes notice of other Times of War. As when His Majeſty, upon juſt cauſe known to Himſelf, by His Proclamation proclaims War againſt any Forreign State, and likewiſe the Law takes notice of the effects thereof: That is, that no Subject of ſuch Prince or State is capable to proſecute any Suit, though but in a Perſonal Action, in any His Majeſties Courts; and likewiſe that then it is lawful for any His Majeſties Subjects to ſeize and keep to their own uſe the Goods of the Subject of any ſuch Prince or State, as the Books are adjudged, 7 *E.* 4. 13. 3 *H.* 8. *Br. Propertie* 38. 22 *E.* 3. 16.

My Lords, it appears not by any thing in the Writ, that any War at all was proclaimed againſt any State, or that if any His Majeſties Subjects had taken away the Goods of any Princes Subjects in *Chriſtendome*, but that the Party might have recovered them before your Lordſhips in any His Majeſties Courts; ſo that the Caſe in the firſt place is, whether in times of Peace His Majeſty may, without conſent in Parliament, alter the property of the Subjects Goods for the defence of the Realm.

2. The

13 *Caroli.*

Secondly, The time that will ſerve the turn for the bringing in of the ſupplies and means of the defence, appears to your Lordſhips judicially by the Writ, that is ſeven months within four days; for the Writ went out 4. *Aug.* and commands the Ship to be at *Portſmouth* the place of the Rendezvous the firſt of *March* following; and thereby it appears that the neceſſity in reſpect of the time was not ſuch, but that a Parliamentary conſent might in that time have been endeavoured for the effecting of the ſupply.

Thirdly, Yet in the third place it is averred, that *ſalus Regni periclibatur*, and that was the cauſe of the iſſuing of the Writ, and this by the Demurrer if it ſhould be confeſſed.

Yet this is but a general, how or in what manner *periclitabatur non conſtat.* By the Law the Defendant may have a Protection when he is in *negotiis Regni*: but when he will make uſe of it, it's not allowable in that generality, but he muſt ſhew in particular in what Town, or Caſtle, or other particular Service he is in, that ſo the Court may judge whether the cauſe be ſufficient, yea or no; and yet is that His Majeſties Writ too, as well as this in queſtion: ſee the Books for it *36 H. 6. 39. 28 H. 6. 1.* Yet in the fourth place, If your Lordſhips ſhall give any heed to this general, as to the particular of Pirates infeſting the Coaſts and preparations further *ad Regnum gravandum*, mentioned in the Writ, the caſe then, as I conceive, is this.

In a time of Peace His Majeſties vigilancy foreſees a danger likely to enſue, the ſupplies for prevention of this danger will ſerve if brought in ſeven Months after within four days, whether in this caſe without their conſent in Parliament His Majeſty may alter the property of His Subjects goods.

Mr. St. John's *ſecond days Argument.*

MY Lords, I have now done with the defence in general, and in the laſt place I ſhall endeavour to prove that this of the Sea hath no ſuch peculiarity in it, but that it will fall within that of the defence in general.

Wherein in the firſt place I endeavour an Anſwer to ſome Objections, both from Authority and Reaſon, that may ſeem to prove a right. And ſecondly, to ſome Preſidents concerning the uſe and practice; in thoſe of the firſt rank I ſhall begin with *Danegelt.*

It may be ſaid, that the *Danes* infeſting the Realm, that *Ethelred*, for the reſiſting of them, firſt by his own Authority laid this upon the Subject, and made it an annual Charge.

Secondly, That after the conqueſt, they ſeldom infeſting the Coaſts of the Conqueror, took it not annually as at the firſt, but at ſuch times only as it is in the *Black-Book*, *lib.* 1. *Cap.* 11. when *ab exteris gentibus Bellum, vel opiniones Bellorum inſurgebant.*

And *Thirdly*, That after *H.* 2. time the Kingdom being altogether freed from the *Daniſh* Invaſions, although the *Danegelt* both loſt the name and uſe, it never after his time being taken by Hydes of Land as before; that yet the ſucceeding Kings by the ſame Authority did lay other Taxes upon the Subject for defence of the Sea.

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My Lords, For Anſwer, in the firſt place I ſhall obſerve this only by the way, that the beſt and certaineſt Authorities for the *Danegelt* agree not what it was.

I mean the Laws of *Edward* the Confeſſor *Cap.* 11. and the *Black Book*, for the Confeſſors Laws ſay, that it was one ſhilling upon every Hide of Land, and the *Black Book* two Shillings, by which it ſhould ſeem that it was little in uſe in *H.* 2. time, nor much known.

That 11*th* Chapter in the Confeſſor's Laws, where this is mentioned, was no part of the ancient Laws themſelves, but ſomething afterward added appears by the words themſelves.

Firſt, It ſpeaks of the freedom which the Church in the firſt Inſtitution of it had, which freedom, we know, was not loſt till after the Conqueſt, and likewiſe of the granting of it to *William Rufus* by Parliament; and therefore it ſhould ſeem to be inſerted in thoſe Laws afterwards out of the Laws of *H.* 2. for this 11*th* Chapter, and that of *Danegelt* in *H.* 2. Laws are the ſame *de verbo in verbum*, as appears in *Hoveden*, *fol.* 344.

But admitting the thing, I ſhall endeavour anſwers to each part of the Objection, as firſt, That the *Danegelt* was granted in Parliament.

Mr. *Camb. Britt. p.* 142. obſerved that the *Danes* firſt infeſted the Coaſts *Anno Dom.* 800. and, as his words are, with ſuch Hurly Burlies, as the like was never heard of, made havock of all, razing of Cities and burning of Churches, and for their continual Piracy had got the name of *Wetcingi*, that is Pirates as the Pirates.

The *Danegelt* firſt began in *Ethelreds* time, almoſt 200 years after the *Danes* firſt Invaſion, for he began his reign *Anno Dom.* 978. That proviſion for Sea-defence was made in the interim after 800. and before *Ethelreds* time, appears by the many Sea-fights of *Alfred* and other Kings made within them: that this proviſion was uſually in Parliament, is probable from that of *Ingulph*, *London* Print, *fol.* 488. where, *Anno Dom.* 833 which was 33 years after the *Danes* firſt Invaſion, a deed to the Abbot of *Crowland* is dated thus; *Coram Pontificibus, Proceribus, & Majoribus totius Angliæ, in Civitate Londoniæ, ubi omnes congregati ſumus pro conſilio capiendo, contra Danicas Piratas littora Angliæ aſſidue infeſtantes*: if King *Ethelred* by his own Authority might have impoſed this, it's like ſome of his Predeceſſors, the caſe ſo neceſſarily requiring it, in almoſt 200 years ſpace would have done it before his time.

That this of *Danegelt* was done in Parliament the words carry as much, for the words of the Law are *danſgeldi redditio primitus Statuta fuit*, a word moſt proper for the Parliamentary Authority.

But fully by the Laws of that King, I mean *Ethelreds* times, in Mr. *Lamberts Saxon* Laws, *fol.* 85. there *ex ſapientum ſuorum Conſilio* peace is made with the *Danes*, and a certain ſum of money in preſent granted to the Army, as our Hiſtorians obſerve. The *Danes* by compoſition were to ſend away their whole Fleet ſaving 45 Ships, which were to remain to defend the Kingdom againſt other Enemies, and the King was to maintain theſe Ships at his charge: that the *Danegelt* was paid to the *Danes* for this defence many of our Hiſtorians obſerve. My Lords, That at the ſame Parliament this was provided for, appears by the words of the Law, *Si quis igitur*

igitur poſt hac Navalis aparatus in Anglia præd. fecerit, hic nobis auxilium ferat exercitus noſq; ei (quamdiu in fide manſerit) quæ ad commeatum ſupputent paravimus per omnia, that this was a Parliament, as the words ſhew it, ſo is it held in the Preface to the *9th Rep.* If this was not the *Danegelt*, yet this is clear, that in that Kings time then promiſed *contra navales apparatus vias*, made by *Parl. Huntingdon, fol.* 265. *London* Print: *Primrum ſtatuerunt Angli infauſto concilio quod ipſi Danis cenſum perſolveret Regibus, namque noſtris modo perſolvitur ex conſuetudine quod Danis perſolvebatur ex ineffabili terrore*, that *Danegelt*, which after the Conqueſt was paid to the King, we ſee by that Author *primum ſtatuerunt Angli; ſtatutum Anglorum*, muſt needs be by Parliament. 13 *Caroli.*

If the *Danegelt* in time of ſuch great danger was not impoſed without Parliament, it will ſtrongly make againſt thoſe that ſhall object againſt it.

Secondly, The *Danes* having quitted the Realm, that the *Danegelt* was releaſed by *Edward* the Confeſſor is affirmed by *Ingulph. fol.* 510. and *Hovedon, fol.* 253. and all our later Hiſtorians. That of *Ingulph*, my Lords, alone is without all exception who lived in thoſe times, for he was brought up in *England* in the Confeſſors days, and therefore knew what he wrote. He afterwards went over into *Normandy*, and was the Conquerors Secretary; came over with him to the Conqueſt, and at his own charge maintained twelve Horſes; he was ſo great at Court, that as himſelf writes, *fol.* 514. *quos voluit humiliavit, quos voluit exaltavit*; and *p.* 518. a Charter of the Conquerors to the Abby of *Crowland* was made *ad petitionem familiaris mei Ingulphi*, and therefore in all likelihood would not report this partially againſt the King.

My Lords, That we are not to put out our Fires and ringing of the *Coverfew* Bell, we have no other Law for it but diſuſe, and the teſtimony of Hiſtorians that *H.* 1. releaſed it.

For that of the *Black Book*, that *William* the Conqueror retained it *quando Bella, vel opiniones Bellorum inſurgebant*, as that Book is miſtaken in the thing, ſaying it was two Shillings on every Hide, being in truth but one; ſo it is poſſible he might miſtake in the other too: That it was releaſed *in æternum* is apparent; that many things were done *de facto*, to the infringing of the liberty of the Subject, both in his time, and of *H.* 1, and *H.* 2. too, it is clear by our Hiſtorians; and if it were not releaſed before, yet that King *Stephen* releaſed it, is written by *Huntingdon, fol.* 221, *Hoveden, fol.* 276. *hoc Deus voluit* ſay theſe Hiſtorians, *ſed nihil horum tenuit*, and as our Hiſtorians all agree, that after *H.* 2. time, in whoſe Reign the *Black Book* was compiled, it was never paid, ſo may it be collected out of the *Red Book*, for all or moſt of the Aids and Eſcuages in *H.* 2. and King *Johns* time being there mentioned in 8 *H.* 2. *quod Danegeldum aſſeſſum fuit*, but after that, neither in his time nor of King *Johns* is any more mention of it.

Sir *Henry Spellman* in his Gloſſary, that when it was taken in the Conquerors time, and ſince that it is was *conſulti Magnatibus Regni & Parliamentari demum authoritate*. My Lords, In the laſt place, If the ſucceeding Kings *mutato nomine*, only have in lieu thereof laid other Taxes upon the Subject, they muſt then hold proportion with that of *Danegelt*, that is, that they have been equally ſet upon all

An. 1637. the Inland Towns throughout the Kingdom as that was. 2. Upon every Hide of Land: And 3. Likewiſe in time, and that there was no intermiſſion but that in *R.* 1. and King *John*'s times which were active, that then it was put in execution.

Clo. 15. *Johannis m.* 3. *Dor. &* 7. and *Matthew Paris p.* 312, 313. The Pope had granted the Crown of *England* to the *French* King, who was ready to invade the Realm; great proviſion of Shipping was made *ad liberationes Regis, & ad ſtipendia Regis.* So far was this King in this time of neceſſity, from impoſing any aid upon the ſubject for the Sea-ſervice, as that he himſelf bore the charge.

My Lords, The next authority from the right which I ſhall inſiſt upon, is that in the terms of the Law, *fol.* 114. in the Title of (*Hydage*) the taxing by Hides was much uſed in old time, and that chiefly in King *Ethelreds* days, who in the year 1006. when the *Danes* landed at *Sandwich* in *Kent*, taxed all the Realm by Hides, and every 910. Hides of Land ſhould find one Ship.

My Lords, My firſt anſwer is, That this was done when there was a formidable Enemy, and which ſoon after conquered the Kingdom, was upon the Shore, as by the Book appears, and therefore likely that the Courts of Juſtice were ſhut, and that the King was in Perſon in the Field.

Secondly, This was but *actus unicus*, and even by the Common-Law that ſo eaſily admits of Cuſtoms, it's *actus Binus* that hath any colour *inducendi conſuetudinem.*

Thirdly, It appears not by any thing in the Book, but that this might be done by Parliament, many of the antient Acts of Parliament are *ſtatuit Rex, vult Dominus Rex.* And whereas the Book ſaith, taxing by Hydage was much uſed in old time. That theſe were by Parliament appears both by uſe and authority, expreſs in Print. Doomeſday in *Barkſhire, quando geldum dabatur communiter per totum Barkſhire dabat Hydam* 3 *s.* there we ſee Hydage *dabatur*, *Matthew Paris, p.* 780. many *Caruragia* and *Hydagia* recited in Parliament that had formerly been given to that King in Parliament.

Bracton in his ſecond Book, *fol.* 37. is expreſs in the Point, that they cannot be taken but by grant in Parliament; his words are theſe, *Sunt quædam communes præſtationes quæ ſervitia non dicuntur, nec de conſuetudine veniunt, niſi cum neceſſitas intervenerit, ſicut ſunt Hydagia & Caruragia de neceſſitate & ex conſenſu totius Regni introductæ, Rot. p.* 8. *b.* 3. *m.* 4.

My Lords, The next authority I ſhall inſiſt on, is the caſe of the Abbot of *Roberts-Bridge* in *Kent*, which becauſe *prima facie* it ſeems to be in point, I will put it at large.

M. 25. *E.* 1. *ſiniente C. B. R.* 77. The Abbot brought a Replevin again *Adam de Brigland* and others for taking his Cattle, the Defendants avow in theſe words, *dicunt enim quod occaſione turbationis inter Regem & Regem Franciæ ſubortæ aſſignatus fuit Will. de Leyborn ex parte Regis ad Cuſtodiam Maris faciendam, ratione cujus cuſtodiæ faciendæ Terra & Tenementa hominum ejuſdem Comitatus agiſtata fuerunt ad Cuſtodiam faciendam*, and the Abbot was ſeſſed 22 *E.* 1. *at* 7*s.* 23 *E.* 1. at 13*s. and* 24 *E.* 1. at 15*s. ad prædictam Cuſtodiam faciendam*, and becauſe he reſiſted to pay that, the Defendants being Collectors for the Town diſtrained the Abbot. The Abbot in Bar of this Avoury ſays, that for his Lands he was aſſeſſed to find a Horſe

a Horſe and Man *in Subſidiam Cuſtodiæ prædictæ*, and that he found this Man and Horſe accordingly, *ad eandem Cuſtodiam faciendam*, and therefore demands Judgement, *ſi una & eadem occaſione Cuſtodiæ prædictæ*, he ought to find the Horſe *& nihilominus prædictam pecuniam ſolvere*. The Defendants maintain their avowry, and ſay, that the Abbot had divers other Lands within the Town, and that he was ſeſſed for them for money, and that he was not ſeſſed for thoſe for the Man and Horſe, therefore iſſue is joyned and day given without any more thereupon that I have ſeen. 13 *Caroli.*

My Lords, Beſides the Authority of it in point, theſe two things may further be objected from this Caſe.

The common uſe that 22, 23, 24. *E.* 1. the County was agiſted *ad Cuſtodiam Maris*, and likewiſe to find Land Forces.

My Lords, For the laſt I have before admitted, that by the Statute of *Wincheſter* this may be done, for the ſervice was to be performed in *Kent*, the ſame County where the Land lay.

My Lords, Becauſe this Caſe *prima facie* hath ſome ſhew of Authority in point, I ſhall endeavour a full and clear Anſwer to it.

By the caſe it ſelf it appears, that the Seſſes were in time of War, the words are *occaſione turbationis inter Regem & Regem Franciæ*; neither was the War with *France* only at that time, but likewiſe with *Scotland* and *Wales*, and all the effects of War.

The *French* had landed in divers parts of the Realm, and in particular 23 *E.* 1. in this County of *Kent*, and had burnt the Priory and the greateſt part of *Dover*; *Dover* Haven was ſhut up for a great part of that time the goods both of the *French* and *Scotch* ſeized throughout the whole Kingdom, the Lands of all Priors Aliens ſeized, and thoſe that were upon the Maritime parts removed, and Natives put in their Houſes, and all Strangers whatſoever that landed within the Kingdom to be arreſted: all theſe, if any of them ſhall be denied, will be made good, not only by our Hiſtories, but likewiſe by the publick Records of the Kingdom: ſo that my firſt anſwer is, that theſe Seſſes were in time of an actual defenſive War from the two next and greateſt States unto the Realm.

My ſecond Anſwer is, that it appears not at all by any thing in this Caſe, that theſe Seſſes were made by any Authority from the King, for the words are only in the general, that the County was agiſted, and that the Abbot himſelf was agiſted, but ſays not by whom or whoſe Authority.

That it was not by the Kings Authority appears by *Leyborns* Commiſſion, appointed *ad cuſtodiam prædictam faciendam*, as the words of the Caſe are; for by his Commiſſion whereby he was to do this, which is *Rot. vas.* 22 *E.* 1. *M.* 8. He was ſo far from having any power to Tax the County hereunto, that he is Commanded for Victuals, Arms and other things that he ſhall need in this buſineſs, that they ſhall pay thoſe from whom they ſhall have any ſuch thing, which likewiſe is entred in the *Co'ia* 23. *E.* 1. *Rot.* 77.

My Lords, That there were Parliaments in every one of theſe years appears by the Summons, and thoſe in words not uſual; for the great Fleet of *France* being mentioned, and that the *French* did intend *Linguam Anglicanam omnino delere*, they were now called

An. 1637. called *ad tractandum Ordinandum & faciendum nobiſcum*, and the Lords *& aliis incolis Regni qualiter ſit hujuſmodi periculis obviandum*, as it is in the Cloſe Roll 23 *E.* 1. *M.* 4. *dorſ.* and 24 *E.* 1. *M.* 7. *dorſ.*

My Lords, That accordingly order was taken *cum incolis*, and that the Gentlemen and other Inhabitants by way of By-law and agreement amongſt themſelves did make proviſion in this particular, I ſhall endeavour to prove to your Lordſhips, that it hath been done at other times, and ſuch By-laws good appears in 14 *E.* 2. *B. R. Rot. C.* 60.

The *Scots* entring *Durham* and a By-law was made by the Inhabitants for raiſing mony, and one that refuſed it was adjudged to pay it. Beſides, *Leyborn* who was Admiral of all the *Engliſh* Fleet, there were *Cuſtodes Maris* in each Maritime County; theſe as appears *Co'ia.* 24 *E.* 1. *Rot.* 78. *dorſ.* were choſen by the Commonalty of each County.

And that theſe together with the Sheriff and Inhabitants did make Orders for thoſe things appears by the *Co'ia* 23 *E.* 1. *Rot.* 79. where Writs are directed to the Sheriff of *Kent*, and all the Sheriffs of other Maritime Counties, commanding them, that *Circa Maris Cuſtodiam viſis præſentibus Milites, & Potentiores liberos homines de balliva tua evoces, & cum ipſis provida circumſpectione deliberes*, how he ſhould do it. This, I conceive, is preſſed in point, and the practice grounded upon that in Parliament *ad ordinandum cum incolis.*

My Lords, My third Anſwer to this Caſe is, that theſe Seſſers were for Land ſervice only, and not for Shipping.

And this appears firſt by the Caſe it ſelf, for the Abbot in Bar of the Avowry ſays, that he was ſeſſed to find a Man and Horſe *in Subſidium Cuſtodiæ prædictæ*, which muſt be for Land Service, and therefore demands Judgement *ſi una & eadem occaſione Cuſtodiæ prædictæ*, he ought both to find the Horſe and pay the Seſs.

My Lords, This is not denied by the Defendants, but they ſay that the Abbot had other Lands, and that this Seſs was for thoſe other Lands; ſo that it's admitted that the Seſs for the Horſe, which muſt be for Land-ſervice, and that for which they avow were both for the ſame Cauſe, all the difference is, whether the Seſs were upon the ſame Land or not?

My Lords, If the Seſſes for which the Defendants avow had been for Shipping, they might have admitted all that the Abbot had ſaid in Bar of their Avowry, that is, that notwithſtanding he found Arms for Land-ſervice, that yet he might for the ſame Land have been ſeſſed again to the finding of Shipping. Neither do I doubt but that the Parties in the actions now before your Lordſhips do find Arms, and yet they are ſeſſed for the Shipping, and that it will be ſtood upon by the other ſide, that the finding of Arms for Land-ſervice excuſeth not for the Shipping.

But it may be ſaid, that the very words are, that the Seſſes were *pro Cuſtodia Maris.*

My Lords, By divers Records it appears expreſly, that the Cuſtody of the Maritime parts by Land is called *Cuſtodia Maris.*

Clauſ. 23 *E.* 1. *m.* 4. *dorſ.* A Writ directed *Collectoribus pecuniæ ad Cuſtodiam Maris* in this County of *Kent*, commanding them, that

in

in reſpect that the five Ports were at the charge of Shipping *quod quieti ſint de Cuſtodia Maris facienda*, which muſt needs lye at Land. 13 *Caroli.*

Co'ia 24 *E.* 1. *Ro.* 79. A Writ to *William Bonill & Sociis ſuis ad Cuſtodiam Maris in Com. Suffolk aſſignatis*, and yet all that they are to do in that Office is for defence at Land; ſo *Tr.* 31 *E.* 1. *n.* 20. *Co'ia.* This *Cuſtodia Maritime* how it is to be done appears *Rot. Parliament.* 46 *E.* 1. *n.* 49. and by the Statute of 5 *H.* 4. *cap.* 3. It is to be done as heretofore it hath been done according to the Statute of *Wincheſter*. 5 *H.* 4. *cap.* 3. *nata.*

My fourth Anſwer to this Caſe is, that the Plaintiff was a Clergy-man, for the Clergy having denied in Parliament to aid the King as the Laity did this year, and at this time they ſtood at the Kings diſfavour, and in *H.* Term as appears *Co'ia H.* 25. *E.* 1. *Rot.* 17. the King Commanded all his Courts of Juſtice, that if any Clergy-man was Plaintiff in any Action *quod nullum ei fiet remedium*, and therefore *Walſingham*, *P.* 41. in his *annatis concluſio* of this year of 25 *E.* 1. ſays thus, that it was *clero Angliæ importabilis, quia de protectione Regia eſt excluſus, & per Regem nihilominus deperdat.*

But my Lords, if I ſhould let all go that hath been ſaid, yet under your Lordſhips favours, the Caſe is of no authority at all; for admitting that the Seſſes were for Shipping, and that by the Kings Authority, yet had the Plaintiff no reaſon to put himſelf upon the point of Law, when the matter of Fact would help him.

For the Plaintiff ſays, that he had been ſeſſed before for thoſe Lands; the other Part ſays no, but that it was for other Lands, and upon this the iſſue is joyned.

Nay, my Lords, if there be any Authority at all in the Caſe, under favour it's ſtrong the other way.

For if the Seſſes were for Shipping, the Abbot ſays, that before he found Arms for the Land-Service, and demands the Judgement of the Court, if therefore he ought to pay this Seſs too. The other part, if the Law had been clear, might have demurred thereupon, ſo that the Authority ſways this way, that none for the ſame Land are chargeable for Arms at Land, and for Shipping too.

My Lords, Not only for the clearing of this Caſe, but of all other things that concern it, either in the meer right or matter of Fact before, 29 *E.* 1. that before the Parliament at *Lincoln*, 29 *E.* 1. all things concerning the Kings Prerogative and the Subjects Liberty were altogether upon uncertainties.

The Statutes of *Runimede* of *Magna Charta* and *Charta de foreſta* had been confirmed at leaſt eight times, from 17 *John* unto 29. *E.* 1. and yet not only the Practice, but likewiſe the Judgements in Courts of Juſtice were clear contrary, to the plain both words and meaning.

By the ſecond Chapter of *Magna Charta* a Baron *pro Baronia integra* was to pay but 100. Marks for his relief, the practice and proceſs out of the Chequer till 29 *E.* 1, was always for this relief 100 *l.*

M. 28. *E.* 1. *Rot.* 34. *Co'ia* after the death of *John Gray* that held *per Baroniam*, the queſtion was whether he ſhould pay 100 *l.* as the Record ſays, *Prout ante hæc venerari ſolebant*, or only 100. Markes

propter

An. 1637. *propter Confirmationem Mag. Chart.* and this the Court would not determine before they had conſulted with the King, and yet the ſtatute of *Magna Charta* had been confirmed but 25. *E.* 1. and likewiſe the ſame year, as appears by the Statute *de Articulis ſuper Chartas.*

Co'ia M. 32 *E.* 1. *Rot.* 26. *Phillippe Marmion* died 23 *E.* 1. and 100 *l.* paid for his relief.

It was now 32 *E.* 1. in queſtion whether 100 *l.* or 100 Marks ſhould be paid, and accordingly adjudged but 100 Markes. The Judgement is thus entred *ſciendum enim quod fines iſtæ of* 100 Marks *admittuntur, licet hactenus* they were always 100 *l.* becauſe the King had confirmed *Magna Charta* 29 of his reign, and by his Writ had Commanded the Courts to inroll it, and would have it *de cætero in omnibus ſuis Articulis obſervari.* My Lords, of this kind there be many Caſes.

The Charter of the Forreſt, *Cap.* 10. is *nullus de cætero amittat vitam vel membrum pro venatione noſtra*, and yet againſt the plain letter and meaning, *Co'ia Tr.* 27 *E.* 1. *Rot.* 44. *Adam Gower* of *Scarburough*, as appears, had in this Kings reign been beheaded *pro venatione* in the Forreſt of *Danby;* and now an Inquiſition went out to find what Lands and Goods he had, and then upon the return the queſtion was, whether his Land was forfeited and ſhould eſcheat upon ſuch an Attainder, and reſolved that his Land was not to be forfeited, *P.* 22 *E.* 1. *Rot.* 48. The Kings Shepheard had put the Kings Sheep into a mans ground who had diſtrained them, and for this Proceſs went out of the Chequer to puniſh the man, who there pleads that he knew not they were the Kings Sheep.

And there *Rot.* 51. *Dorſ. Leſſee* for life of a Mannor of the Kings with the Advowſon accepted, by preſenting to the Advowſon, the Court declared that he had forfeited the Mannor it ſelf.

By theſe Caſes it appears, that neither the Practice nor proceedings in the Courts of Juſtice in theſe times, in things between the King and the Subjects, are ſo much to be relied upon as the words of the Law.

Ob. 4. My Lords, It may further be objected, that at the Common Law, before the Statutes of *Wincheſter*, the King might compel the Subject to find Arms for the defence of the Land, and therefore by the ſame reaſon he may charge them to find ſhips for defence of the Sea.

My Lords, not granting the thing, yet for the preſent admitting it, I ſhall thereunto give theſe Anſwers.

1. That His Majeſty by the Tonage and Poundage, and other duties at Common Law, before-mentioned, hath a particular ſupply for that of Shipping, but hath nothing in particular for the other of Armes, and therefore that may with more reaſon be laid upon the Subject than the other.

And yet for one of the principal things in that Statute of *Wincheſter*, that is, for Watching and Warding, the Kings before that Statute had a particular and certain farm or ſum of money of each County for the doing of it, which after that Statute the County was diſcharged of, becauſe by that Statute the County took the charges of doing it upon themſelves, as the Caſes are,

Co'ia

Co'ia H. 20 *E.* 1. *Rot.* 10. and *Br. Tr.* 33. *E.* 1. *Rot.* 23. *dorſ.* 18 *l. pro Can.* and 16 *l. pro Northumb.* 13 *Caroli.*

My ſecond anſwer is, That each Subject, and that *Secundum ſtatum & facultates*, is already chargeable for that of Ships, as hath been before proved; and therefore if he be chargeable both in Money and kind too, the charge is double in the one, and but ſingle in the other: Neither would it hold proportion with theſe Caſes of Watching, where the County was diſcharged of Money, when they took the things in kind upon themſelves: And therefore this Objection cannot, as I conceive, be made, unleſs His Majeſty firſt quit all the before-mentioned Duties upon Merchandiſe.

3. My third Anſwer is, That in that of Arms there is only *mutatio ſpeciei*, changing of Money into Arms, for they remain the Subjects ſtill in property, and are in his own cuſtody; he may ſell them, or imploy them at his Pleaſure for his private uſe.

But in this way of Shipping there's *Oblatio Rei*, in reſpect of the Victuals and Mariners Wages for 26 Weeks.

4. My fourth Anſwer is, That that of Arms is not only for the Defence againſt Forreigners, but in the Watchings and Wardings upon Hue and Cry, and otherwiſe, to keep the Peace within the Realm, and for the execution of Juſtice, by aſſeſſing the Sheriff, when he ſhall have cauſe to uſe the *Poſſe Comitatus*, and otherwiſe; all which do fail in the other.

And as the uſe of Arms is more general, ſo are they for the more immediate Defence of that Element, wherein we have our moſt uſual and certain livelihood.

And yet the ordering of theſe for 300 years and upwards, was by Authority of Parliament.

Laſtly, my Lords, in reſpect of the Victuals and Mariners Wages to be found for 26 weeks; the Caſe in queſtion as I conceive, cannot be compared to that of Arms, but rather to that of taxing the Country for finding of Souldiers to go out of their Counties.

5 *Obj.* My Lords, the next Objection that I ſhall endeavour to give anſwer unto is, That it is in His Majeſties Power, for the ſafety of the Realm, to ſhut up the Ports and Havens of the Kingdom, and thereby to make a general ſtoppage of all Forreign Trade: And therefore, as His Majeſty may anticipate gain, by barring Men from the exerciſing of their Callings, ſo by the ſame reaſon may He take ſomething away.

My Lords, my firſt Anſwer is, That the Law therein doth truſt the King only with that, which being done, is moſt to his own loſs, as in reſpect of the Cuſtoms, and other Duties, this of prohibiting Forreign Trade would be.

My ſecond Anſwer is, That this cannot be done but in time of War, and imminent danger; and that this Objection therefore will not be ſeaſonable, until the other be put in execution.

6 *Obj.* The laſt Objection is, That in divers old Charters of Liberties and Exemptions, the Patentees are freed *de Danegeldo & Navigio*; hereby is implyed a Right. My Anſwer is, From the ſame Charters it may as well be inferred, that the Subject is bound to make and repair the Kings Parks and Houſes, and to make new Bridges, and divers other things; theſe Charters of Exemption

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freeing them *ab operationibus Dominiorum Regalium, Parcorum, & Pontium*, and from divers other things, which by Law the Subject is not bound unto.

Obj. from matter of Fact and Charge.

My Lords, for the Presidents that may be brought for proof of the use and matter of Fact; as I do not profess to know them all, so if I did, yet time would not permit a particular Answer to each of them; I shall therefore offer these general Answers to them.

That most of them, or all of them, are for charging the Sea-Towns, and not of the In-land Counties: That besides the Five Ports, many great Sea-Towns and Havens which have Ships, have many great Priviledges, and are infranchised for that purpose, is declared in the Parliament Roll of 13 *E.* 3. *N.* 11. before cited. Those that are to find Ships, besides the many Prescriptions for Wrecks and benefit of Fishing, are discharged of Arms and Defence at Land, as appears not only by that Parliament Roll, but by the *Scotch* Roll, 10 *E.* 3. *N.* 28. *Dorf.* The Town of *Shoram*, in the County of *Sussex*, time out of mind had found Ships; and therefore being by the Commissioners for the Array taxed to Arms for the Land-Service, a *Supersedeas* for that very cause awarded.

Iter Sussex 7 *E.* 1. *Roll* 63. *Dorf. William de Bruise* Lord of *Shoram*, upon his Claim adjudged, that all the Customs of Merchants at *Shoram* belonged to him, *Rot. Pat.* 26 *E.* 1. *M.* 16. The Town of *Yarmouth*, *pro servitio Navium impensо & impendendo*, are discharged of all Subsidies granted in Parliament, *Pro Corporibus Navium & attito, & Co'ia Tr.* 3 *E.* 2. *Ro.* 30. The Town of *Baldsey*, in the County of *Suffolk*, for the same cause discharged by Judgment of the Court.

Iter Cant. 21 *E.* 1. *Rot.* 44. *Dorf.* Certain Land-owners within the Five Ports have *Tall' de quolibet homine applicante* upon their Lands.

Petitions 1 *E.* 3. *Ro.* 9. *Office de Pa'*, in consideration of the Charge of providing Ships, the Town of *Southampton* petition, That their Priviledges of having Customs within the Ports be confirmed unto them. That they had these, appears *H.* 13. *H.* 4. *B. R. Ro.* 39. where they are indicted for Extortion, for taking more Custom than was due, *Rot. Par.* 45 *E.* 3. *N.* 31. The Commons pray, that the Franchises of the Sea-Towns and Havens may be allowed them as heretofore, and that by default thereof the Navy of *England* is much decayed, to the disassurance of all the Realm if need should be. That those that are not Maritime Towns, ought not to be charged, which is the very Case of the Defendant: I shall cite to your Lordships expres Presidents.

Clauf. 13 *E.* 3. *M.* 14. *Dorf. pars secunda.* The Town of *Bodvine* in *Cornwel* discharged of Ships, because *dicta villa portus non est, & longe a Mare distat*, and hath not used before-time to find Shipping. And an Inquisition awarded to enquire of these Particulars, whereby it appears, that the In-land Counties had not so much as *de facto* been usually charged with Ships.

Rot. Franc. 21 *E.* 3. *M.* 17. Those Towns *quæ Naves non habent, & quæ aliis Naves habentibus contributoria non existunt*, that they should

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ſhould be diſcharged. It appears thereby, that there be ſome Towns that are Members of great Sea-Towns, and are contributory to Shipping, and other In-land Towns are not contributory, *Secunda Pars Pat.* 2. *R.* 2. *M.* 42. *a Chartre* 51 *E.* 3. whereby it is likewiſe recited, that the Burgeſſes of *Beverly* had by their Petition in Parliament complained, That that Town is *in loco arido, & a Mari*, that *ad ſiniſtram procurationem quorundam Machinantium ipſos indebite prægravare ad contribuendum ſimul cum hominibus villæ de Kingſton ſuper Hull*, to the making of a Barge, *per mandatum Regis.* Now they pray *de omnibus & ſingulis hujuſmodi oneribus inſolitis*, to be diſcharged by the Charter; it appears that they are diſcharged accordingly, and this now exemplified 2 *R.* 2.

2. To thoſe of 48 *H.* 3. both for Taxes for Souldiers, and ſome to Shipping, I ſhall give a particular Anſwer: That it was then *Tempus Belli*, when the Courts of Juſtice were ſhut, for the Commiſſions went out after *April*; and in the *Red Book fo.* 241. 6. it was *Tempus Belli* from 4 *Sept.* 48 *H.* 3. till the 16*th* of *Sept.* 49 *H.* 3. and that the Courts of Juſtice were ſhut, appears in 49 *H.* 3. *R.* 4. *Co'ia Scaccario non fuer' Barones reſidentes in Scaccario ad Paſ.* 48 *H.* 3. and *Co'ia Paſ.* the 49 *H.* 3. *propter turbationem nuper habitam*; there were no Sheriffs *in aliquibus Comitatibus*, 48 *H.* 3. and thoſe that were, *non potuerunt ſic facere quæ ad Officium Vic' pertinebat.*

3. To thoſe Commiſſions that went out before 29 *E.* 1. I have given an anſwer already, That the liberties of the Subject had been adjudged againſt the direct words of *Magna Charta.*

To the Commiſſions 30 *E.* 1. *M.* 9. In the Patent Roll *de puniendo homines* that refuſed, it is *quia ad rogatum Regis mittere conceſſerunt* ſo many Ships; and if a By-law were good to bind them, as is before proved, as well as their own promiſe: neither have I ſeen any legal Proceedings againſt any of thoſe that refuſed at that time, ſave only againſt the Five Ports that are cited by their Service.

P. 33 *E.* 1. *Ro.* 38. *B. R. & Ro.* 82. againſt *Seaford*, as a Member of the Ports, and the Charge is, That *per ſervitium tenent' invenire unam navem.*

5. For thoſe of *E.* 3*d*'s time, His Reign was for the moſt part a time of War, and that the offenſive brought a defenſive upon the Kingdom is plain. *Wal.* ſays, That *P.* 119. 10 *E.* 3. the *French*, *Wal. P.* 131. burnt *Southampton. Stowe P.* 234. 12 *E.* 3. They aſſaulted *Southampton*, and burnt part of *Plimouth.* 13 *E.* 3. They aſſaulted the Iſle of *Wight*, *Rot. Parliament* 13 *E.* 3. *pars prima N.* 9. That they had done much miſchief upon the Coaſt, and conquered the Iſle of *Jerneſey.*

Scotch Roll 10 *E.* 3. *M.* 5. *Dorſ. & M.* 2. All the Ports throughout *England* ſhut up.

My Lords, in theſe years, wherein moſt of thoſe Writs iſſued, the great danger appears, and yet that the Charge laid upon the Country was by Law and agreement.

I ſhall cite to your Lordſhips the *Scotch* Roll 10 *E.* 3. *M.* 3. The *French* riding at Anchor at the Iſle of *Wight*, the King ſent divers Privy-Councellors to *Dover*, and commanded all the Officers, Maſters of Ships, Mariners, and Inhabitants, from the *Thames* to the *Weſt* to come thither, and *ad tractandum* with thoſe Lords of the Council about the

An. 1637. Defence at Sea by Ships; and in the Records recited, that notwithſtanding the Kings former Command, *hactenus quicquid non fecer' in præmiſſis*, the Writs for Shipping iſſued before, and were not executed, and therefore now a Commiſſion, if ſo it might be done with conſent. 20 *E.* 3. Other Writs went out, *Ro. Fr. ſecunda pars M.* 24. 20 *E.* 3. writ to *Yarmouth*, *propter pericula Maris*, to ſtop up their Havens; and *Rot. Fr. prima pars M.* 19. *Dorſ.* That no Fiſhermen go out to Sea.

Clauſ. 10 *E.* 3. *M.* 23. I ſhall endeavour a particular Anſwer to this: The Writ ſays, That *vadia pro defenſione ſuper Mare ſolvi non ſolebant temporibus Progenitor'* of the King.

To this I ſhall give this Anſwer, That theſe Wages were demanded before the time of their going to the Service; and the Record is, That *hujuſmodi vadia* have not been paid.

2. My Lords, If this Anſwer be not ſufficient, my ſecond Anſwer is, by denying the King; for beſides that of 15 *Joh.* in that time of neceſſity the Ships were to ſerve *ad liberationes, & ad ſtipendia Regis*, and 46 *H.* 3. *M.* 4. both in *E.* 1. *E.* 2. and this Kings time, before the tenth year of His Reign, Wages for Defence were frequently paid.

My Lords, Becauſe I know not how far this will be ſtood upon, I ſhall ſpare the citing of any of them, and ſhall to this purpoſe cite to your Lordſhips only this Caſe: It is amongſt the *Pa. Petitions*, 1 *E.* 3. and tranſmitted into the *Chequer*, *H.* 2. *E.* 2. *Dorſ.*

The Fiſhermen upon the Coaſt of *Yarmouth*, 20 *E.* 2. were daily robbed and killed, and for Reſcue of them, thoſe of *Yarmouth* were commanded to ſet out ſome Ships to Sea, and *Adam Bridlington*, the Kings Clerk, ſent with 300 *l.* to ſet out this Fleet, which the Men of *Yarmouth* intended they ſhould have as Wages for the Voyage; but the Clerk would not let them have above 230 *l.* and that as Money borrowed of the King; and for this they gave their Bond of re-payment hereof, 1 *E.* 3. They complained in Parliament, and pray, That they may be diſcharged of the 230 *l.* and that the Bond may be cancelled; which is adjudged accordingly, and tranſmitted into the for a Tryal, whether they had done the Service or no.

My laſt Anſwer to theſe Preſidents is, That the Matters of Fact in theſe years, to the violation of the Subjects Rights, procured upon freſh Suits, not only the before-mentioned Stat. of 14 *E.* 3. *Cap.* 1. againſt any Charge to be laid upon the Subject without aſſent in Parliament.

Bnt afterwards they complained in Parliament, 15 *E.* 3. *N.* 9. That their Goods were ſeized, and their Bodies taken without any Suit commenced againſt them, contrary to *Magna Charta*, and the Statutes and Ordinances made thereupon with ſo much diſcretion of their Anceſtors.

And in particular, in the Parliament Roll of 22 *E.* 3. *N.* 4. for the guarding of the Seas. And in 36 *E.* 3. *N.* 9. and 37 *E.* 3. *N.* 2. as before in 15 *E.* 3.

My Lords, I am now come to the laſt thing, which is the Proofs in the Point, which I ſhall humbly offer to your Lordſhips. My Lords, the firſt Authority that I ſhall cite to your Lordſhips is, the Patent

Patent Roll 26 *E.* 1. *M.* 21. whereby I ſhall endeavour to prove to your Lordſhips theſe two things. 13 *Caroli.*

1. The confeſſion of that King and His Council, That He was ſo far from having power to tax the People for the Cuſtody of the Seas, as that he is bound to make ſatisfaction for any thing taken from the People for that purpoſe.

2. The ſecond, That the Charges laid upon the People for the Cuſtody of the Sea, were the principal grievances that occaſioned the making of the Statutes of 25 *E.* 1. and *de Tallagio non concedendo.*

For the laſt, the King there declares, That He had a deſire to redreſs the grievances made to the People in His Name, and inſtanceth what they were, *veluti de rebus captis in Eccleſiis, & omnimodis alijs rebus captis & aſportatis; tam de Clericis quam de Laicis, ſive pro Cuſtodia Maris, vel alio modo quocunq;*. Whereby, my Lords, there's an acknowledgment, that it is a grievance, and to be redreſſed; —— to lay any Tax upon the Subject for the Cuſtody of the Sea.

Commiſſioners are there named throughout all *England*, to enquire of theſe grievances; herein they are to proceed accordingly to certain Inſtructions from the King and the Council.

Which are theſe three.

1. Whether the things were taken without Warrant; and if ſo, then the Party that took the Goods is to make ſatisfaction, and further, to be puniſhed for the Treſpaſs.

2. If there were a Warrant, whether the Sheriff, or other Miniſter, took more than the Warrant allowed; if ſo, then the Officer was to make ſatisfaction.

3. If all were done according to, and in purſuance of the Warrant, and no more than upon certificate thereof unto the King, as the words are, it *en ferra tant que il ſe fiendra appayes pro reaſon.*

The King hereby promiſeth, That whatſoever things were taken from the People, by any command of His, for the Cuſtody of the Sea, that he will make reaſonable ſatisfaction to the Party for ſuch things.

My Lords, for the ſecond thing, that is, That theſe grievances occaſioned the making of theſe Statutes, is clear from the words of the Patent; for they were made, *Poſt guerram inter Regem, & Regem Franciæ*; which, as appears by the Caſe of the Abbot of *Roberdsbridge*, was from 22 *E.* 1. until 25 *E.* 1. and by all our Hiſtorians, and many Records.

It appears likewiſe by thoſe other words, that the King, before His going into *Flanders*, intended to have remedied thoſe grievances; He went over in *September* 25 *E.* 1. and the Statute 25 *E.* 1. was made the 10*th* of *October* after.

Hence likewiſe it follows, that the exception of the Kings ancient Aids and Prizes, mentioned in the Statute of 25 *E.* 1. extends not to this of charging of the People to the Cuſtody of the Sea; that being one of the principal grievances that occaſioned the making of it. That the ſame grievances cauſed the making of the Statute *de Tallagio*, I have before offered the proof to your Lordſhips.

2. My

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2. My Lords, The next Authority which I ſhall preſent *is the Co'ia H.* 23. *E.* 1. *Ro.* 77. there the King commanded 30 Gallies to be made by ſeveral great Towns, every Gally was to have ſixſcore Oars a-piece. Theſe were *pro defenſione Regni & ſecuritate Maris.* My Lords, the Caſes are many in the *Chequer*, where the Mony for the making of theſe Gallies was recovered againſt the King.

I confeſs, my Lords, that the King had promiſed payment to thoſe that made them, which I ſhall thus ſubmit to your Lordſhips: That in caſe the King might have commanded the making of them at the Charge of the Towns, that then the Kings Promiſe was but *Nudum pactum*, in promiſing payment for that which by Law they might have been forced to do; And ſo the payment reſted only in the Kings Grace and Pleaſure. But, my Lords, upon Suits in His own time of *E.* 2. and *E.* 3*d's* time, the Money for making theſe Gallies was recovered by ſeveral Towns. *M.* 29 *E.* 1. *Ro.* 29. *Dorſ.* for *York*. *M.* 31 *E.* 1. *Ro.* 77. *Ipſwich* and *Donwich*. *P.* 5 *E.* 2. *Rot.* 21. for him, *prout juſtum fuerit*, nothing having been paid before.

Bra. M. 6 *E.* 2. *Rot.* 14. Both for the Gally made at *Southampton*, and bringing her to *Winchelſey* at their own Charge.

Præcepta P. 1 *E.* 3. All the Money from *Southampton* not being paid, now ordered that it ſhould be paid.

3. My Lords, The next Authority which I ſhall preſent to your Lordſhips, is the Parliament Roll of 13 *E.* 3. *Pars prima N.* 9. and 11. The Cauſes of calling the Parliament are declared to be Three.

1. Firſt the keeping of the Peace.

2. The defence of the Marches.

3. The third, the ſafe-guard of the Sea, that the Enemies might not enter the Realm to deſtroy it.

Theſe three Points for the Commons to adviſe upon, are put into writing, and entered in the Roll.

My Lords, by the Articles themſelves propounded on the Kings part, it appears that the Commons are not chargeable to the guarding of the Sea; for it is propounded unto them with caution, That not being bound to the guarding of the Sea, that this advice of theirs ſhould not be prejudicial to them, to bind them thereunto, and that there are Ships enow in *England* to do it, if the People were willing, *N.* 11. The Commons afterwards, in debating theſe Articles, when they came to this of the Sea, notwithſtanding the caution before, they are afraid, that if they ſhould debate it, that it might imply that they are chargeable to do it; and therefore they proteſt againſt giving any advice therein, as a thing whereof they have no cognizance; and do further declare, That the five Ports, and divers other great Towns that have Franchiſes, and are bound thereunto, that they ſhould do it.

And therefore the Merchants, Maſters of Ships, and Mariners through *England*, are ſummoned to be at the next Parliament for advice about Shipping.

4. My Lords, The next Authority, is the Parliament Roll 20 *E.* 3. *N.* 21. The Commons petition in theſe words, *que la gard de la mere ſe face deſcries Res ſoit le gard ſit man ad refait amant vis ſe-*

Quer de ceux parolls en le Record.

nois

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nois ut ſemble que Melliur gard ne poit eſtre fait que le Roy ne fait no' poſt il de marrit iſſint per de la ſur Ca' guer' & pr' de faire de ceſt terr'.

My Lords, The Commons having formerly granted the King divers Aids and Subſidies upon Wools, Wooll-fells, and Leather, and otherwiſe, for the guarding of the Sea, they now grew weary of it, and deſire that the King himſelf from thenceforth ſhould bear the whole burthen thereof, and charge him with his promiſe to that purpoſe.

My Lords, This Petition, although in the Name of the Commons, yet the Lords joyned in it; for otherwiſe all our Acts of Parliaments of thoſe times being made upon Petition and Anſwer, ſhould be without the Lords aſſent. Hence it appeared, that the whole Kingdom at this time was ſo far from thinking that the King could charge them without their conſents, to the guarding of the Sea, as that they alleadge that the King himſelf ought to bear the whole Charge; neither doth the King deny His promiſe, nor wholly deny the thing; for though he ſays, that it ſhould be done as hath been done before, yet it is with a qualification, becauſe the Sea cannot be better kept than he hath kept it, by reaſon of his ſo often being at Sea in Perſon, in going and returning from *France*, and diverting the Enemy by his Wars in *France*; if the King had given His abſolute denial, yet here's the Judgment that both the Houſes of Parliament expreſs in Point.

Rot. Franc' 21 *E.* 3. *Secunda pars N.* 11. and 9. The Merchants had granted 2 *s.* 8 *d.* upon their Goods till *Michaelmas*, for providing 120 great Ships *pro ſecura conductione Navium & Merchandizarum, & pro defenſione cæterarum maritinarum Regni, & aliis periculis his guerrinis temporibus regno venientibus.* This Grant being made by Merchants, the King alleadgeth this was not ſufficient for the Service, and the cauſes of the ſtoppage of Trade by reaſon of the Wars: the King now lengthens out the time from *Mich.* till *Eaſter* following; and to ſatisfie the People the King by His Proclamation declares, That the 2 *s.* 8 *d.* ſhall ceaſe at *Eaſter* according to the Grant; which, as it ſhould ſeem, not ſatisfying the People, or the King ſtill continuing the taking thereof, the Commons in Parliament, 22 *E.* 3. *N.* 16. pray, that it may ceaſe, and that by procurement of no Merchant, *Pluis l'argent ſoit continue.*

An Impoſition but for half a year, and that upon Merchandiſe, and by conſent of the Merchants, for the Defence, yet taken off upon complaint.

The Anſwer is, that it ſhould ceaſe.

My next Authority is the Parliament Roll 2 *R.* 2. *Pars ſecunda N.* 5. before cited, where the great Councel and Sages of the Kingdom reſolve, That the Commons are not chargeable to the Defence of the Realm without Parliament, extends to this Particular of the Sea, for the preſent preparation whereto the Commons are not chargeable for defence at Sea; and therefore the Money lent was to provide an Army for the Sea *en defence & ſalvation del' dit Realme, & de la navie, & des coſtiers del' mere.*

My Lords, The next Authority is the Parliament Roll of 2 *H.* 4. *N.* 22. Commiſſions to charge the People to make Ships for the defence of the Realm without conſent in Parliament, repealed by the King, and the whole Parliament, for that very cauſe.

Item

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Item pur ceo quere tarde divers Commiſſions fuerunt fait au divers Civies, Burrowis & Villis du Roylme pur faire certein barges & ballingers ſ̄s̄ aſſent du Parliament, & outment que eſtre fait devant ces heures n̄r les Commons prove a noſtre ſur le voy que les dits Commiſſions ſoyent repeales, & qu'ils ne ſoyent de nul force ne fait a que fuit reſpondus que le Roy voet que m̄r les Commiſſions ſoyent repeales in touts points mes pur le grand neceſſitie que ad des tiels neifes pur defence du Roylme en Caſe que les queus ſe priment le Roy voet Communer de reſt matter oveſq; les ſeigniore, & puis apres le monſtre ove dits Commons pur eut aver lour Counſel adviſe in tiel part. The firſt Commiſſions repealed, becauſe the Commons were not chargeable without conſent in Parliament; and now the King will put it into the Parliamentary way by doing with aſſent of the Lords and Commons.

8. My Lords, my next Authority is the Par. Roll 9 *H.* 4. The cauſe of the calling of the Parliament is for the ſafe-guard of the Sea, and of the North Marches; and *N.* 17. great miſchief ſhewn for default of the ſafe keeping of the Sea; and *N.* 21. It's there inrolled by the Kings Commandment, that there was Communication had between the King and the Lords of the Defence of the Realm, and for reſiſting the Enemies, who made preparation on all ſides, whereunto ſufficient reſiſtance cannot be provided, without that the King have in His Parliament ſome notable Aid granted unto him.

My Lords, The King hereby acknowledgeth, that he cannot without the Parliament charge the People for the ſafe-keeping of the Sea, that being the principal part for the defence there intended. The ſame with the Summons, that without the conſent of the Commons, *negotia prædicta infra remanerent*; and with the Summons in the cloſe Roll, 23 *E.* 1. before-mentioned, *quod omnes tangit per omnes debet approbari.*

My Lords, the next Authority in the Parliament Roll, 4 *H.* 4. *N.* 28. The Lords Spiritual and Temporal, and the Commons grant to the King a Subſidy upon the ſtaple Commodities, and Tunnage and Poundage, and likewiſe a 10*th* and 15*th* with this proteſtation.

Proteſtant que ceſt grant en temps avener̄ ne ſoit paſſe in example de charger les dits ſeniors ne les Commons du Realme de nul manner Subſidie ne 10th *ne* 15th *a les guerris deſtore, gates ou ſafeguard de mere ſ'il ne ſoit Ples volunts des Seigniors & Commons de veſtre Realm, & ceo a novel grant faire in plein Parliament.*

Rot. Parliament. 6 *H.* 4. *N.* 12. and

Rot. Parliament. 1 *H.* 5. *N.* 17. the ſame Proteſtation as before.

My Lords, That the Charge of the Defence at Sea, and that in a large proportion, by reaſon of the before-mentioned Duties, is to be born by His Majeſty, I conceive that it will not be denied, that in *Subſidiam*, and Aid of His Majeſty, therein the Commons are not chargeable without their conſent in full Parliament: in theſe three Records there is not only theſe Proteſtations of the whole Realm, being made by the Lords and Commons, but likewiſe theſe Kings conſents, by accepting the things granted, and that without any qualification of the Proteſtations. Theſe Proteſtations,

13 *Caroli.*

ſtations, that they are not chargeable to the guarding of the Sea in a certain way, as are 10*ths* and 15*ths*, do much more fail in a way uncertain, as here.

My Lords, my next proof is from the practiſe of former Kings in their frequent demands of Aids in Parliament, for the defence of the Sea, as well before the Statute of Tunnage and Poundage, as then; and ſithence Monies borrowed by the former Kings for Ships and Defence at Sea, and Indentures of Reteyner for that purpoſe at the Kings Charge.

And not only ſo, but upon Suit, allowances in the *Chequer* for Victuals, Mariners Wages, Archers, Priſoners taken in Sea-Fights, *pro defenſione*, and all other things neceſſary for Shipping, when for the Defence of the Realm. Whereupon the ſame Argument may be made in this particular for the Sea, as was before for the Defence in general.

The laſt thing which I ſhall preſs, is that of the five Ports. Their Service is certain in reſpect of the time, but 15 days in a year, in reſpect of the Charge, but 20 Men and a Maſter, the number of Ships certain.

Beſides, that they are diſcharged of Arms for the Land-Service, they have divers other Priviledges for the doing hereof; they were free from all Aids and Subſidies granted in Parliament, and are by Privy-Seal diſcharged thereof, *H.* 2. *E.* 3. *Co'ia*, about the end of the Roll.

They are freed from all Tolls, Murage and Pontage throughout the Realm, which bringeth a greater Charge upon the reſt of the Subjects.

My Lords, I ſhall thus offer it to your Lordſhips, if they that have theſe Priviledges ſhall ſerve but 15 days in a year, how the others that have no Priviledges at all ſhall do it for 26 weeks, as in the Writ.

Secondly, their Charge is certain in the number of Men and Ships, how the reſt of the Commons, that are ſo far from having any Priviledges or recompence for it, as that they do contribute to this Charge of the five Ports, ſhall, as by the way in the Writ, be altogether uncertain in the matter of Charge, both in the number of Men, and of Ships, and of every other thing.

My Lords, I ſhall preſs this farther, thus, when the Ports exceed their Charge in the number of Men or Ships, allowance by the King is to be made unto them.

This, as it appears by the Quier of *Dover*, and the Patent Roll of 7 *H.* 7. before cited, that after the 15 days they were to be at the Kings Charge. So in the Patent Roll, 19 *H.* 3. 14. becauſe they found 40 Men in the Ship, the King promiſeth payment for all over and above the number of 21. *Bra. Tr.* 33 *E.* 1. *R.* 22. allowance to Service in *Scotland*. The *Scots*, as appears by *Wal. P.* 53. and other-where, having about that time burnt divers *Engliſh* Towns and Ships, and a School-houſe with 200 Scholars in it.

Viſus Com. P. 33 *E.* 1. *R.* 70. *Pro ingenio Ro. Scotland*
P. 34 *E.* 1. *Ro.* 37. *Co'ia la Compoſition.*

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My Lords, if the Ports, who are bound to the Defence at Sea, when they have performed their Service, be not compellable to any farther Charge; I ſhall humbly offer it to your Lordſhips, whether thoſe that be not bound at all, are from the ſame reaſon chargeable at all.

My Lords, I have now done, and ſhall not further preſs upon the patience of your Lordſhips.

I know that *nullum Tempus occurrit Regi:* The diſuſe thereof I ſhall preſs it no otherwiſe than as it is an Interpretation of the Statute made againſt all Aids and Tallages in general, and of the complaints in Parliament of 5 *N.* 9. 36. *N.* 9. and 37 *E.* 3. That thoſe Statutes had not been duly kept: And further, as it is an Interpretation likewiſe of the before-mentioned Declarations, Petitions, and Proteſtations againſt this in particular, and as it is an execution of them, and putting them in practice.

Praxis Sanctorum, as the Divines ſay, *eſt interpres præceptorum.*

The Claims which anciently the Subject hath made upon the Crown, that none of the great Officers of the Kingdom could be choſen but in Parliament, nor that the King had power to ſell any of the ancient Crown-Lands; the diſuſe it ſhews, that thoſe Claims of theirs were not legal.

Bra. in his fourth Book, *fo.* 209. ſays, That *longa Patientia trahitur ad conſenſum*; the Non-Claims therefore of ſo many of the later Kings and Queens, I ſhall preſent unto your Lordſhips, as ſo many *le Voat's* and Declarations of their ſeveral conſents; That without Aſſent in Parliament they could not have laid the like Seſs upon any of their Subjects, as is now laid upon my Clyent.

The End of Mr. St. John's *Argument.*

Sir John Bankes *Knight, the Kings Attorney-General, his firſt days Argument in the Caſe of Ship-Money in the* Exchequer-Chamber, December 16. 1637.

May it pleaſe your Lordſhips.

THere was a *Scire Fac'* brought againſt Mr. *Hampden*, and divers others, to ſhew cauſe why thoſe Sums of Money Seſſed upon them by the Sheriff of *Buckingham* ſhould not be paid and anſwered. It beareth *Teſte* 22 *Maii* 13 *Car.* and a *Sci' Fac'* Returned: Mr. *Hampden* demandeth Oyer of the original Writ 4. *Aug.* and of the *Certiorari*, *Mittimus*, and ſeveral Returns. The Writ of 4 *Auguſti* went out to provide a Ship of 450 Tun, with Victuals, Men, Munition, *&c.* The Writ giveth Power to the Sheriff to make an Aſſeſſment upon the County, and giveth Power of Diſtreſs and Impriſonment *contra rebelles* in caſe of Non-payment. He demandeth *Oyer* of the *Certiorari*, which conſiſteth of two parts, the one to certifie the Sums aſſeſſed, the other to certifie the Names of the defaulters. And the Names of thoſe that made default were Returned, and Mr. *Hampden* amongſt others. He demandeth

mandeth *Oyer* of the *Mitimus*, which doth recite the tenure of the firſt Writ. 13 *Caroli*

Upon *Oyer* of all theſe, both of the Writ 4 *Auguſti*, of the *Certiorari*, *Mittimus*, and *Sci' Fac'*, and their ſeveral Returns, Mr. *Hampden* hath demurred in Law.

The Caſe that ariſeth upon this Record is thus: The King is Lord of the Sea. That's part of the Record. The Sea is infeſted by Pyrates and *Turks*, who commit depredations, and take Goods of Merchandizes, both of the Kings Subjects, and others that traffick there, and carry them away into Captivity. There is preparation of Shipping, eminent danger; for ſo the Writ reciteth: A danger, that the Kings Dominion at Sea ſhould be loſt, or at leaſt diminiſhed. There was a farther danger, that *Salus Regni periclitabatur*: Whether in this Caſe the King, *pro defenſione Regni, tuitione Maris*, &c. may command His Subjects, *per totam Angliam*, by Writ under the Great Seal to provide Ships at their own Coſts and Charges. And this when the King in His own Judgment conceiveth ſuch a danger as doth neceſſarily require this Aid. That, under favour, is the Queſtion upon this Record.

There is in this Record, whereof your Lordſhips are Judges, four Writs. (1) 4 *Auguſti* 11 *Car.* which goeth out of the *Chancery* for the ſetting forth of this Ship of 450 Tunn. (2) That 9 *Martii* 12 *Car.* and that's the *Certiorari*. (3) 5 *Maii* 13 *Car.* which is the *Mittimus*. (4) 22 *Maii* 13 *Car.* which is the *Sci' Fac'*. The ſecond and the fourth Writ, which is the *Certiorari* and the *Sci' Fac'*, they are Returnable. The firſt Writ and the third Writ, which is the Writ 4 *Auguſti*, and the *Mittimus*, they have no Return; but they give command, and require execution ſhould be done, *prout de jure*, &c. *ſecundum conſuetudinem Angliæ*.

The firſt Writ, which is the ground of this Buſineſs, ſtandeth upon two Parts, *viz.* A Preamble, and the Body of the Writ: The Preamble, that containeth, firſt, a Direction; ſecondly, the Motive and Cauſes of the iſſuing of the Writ. The Body containeth ſix; The direction that is unto the Sheriff of the County of *Bucks*, *Necnon* unto the Bailiffs and Burgeſſes of *Buckingham*, and *probis hominibus* of all the County. The Motives, and the Reaſons inducing this Writ, are nine in number. (1.) *Quia Piati*, &c. That theſe commit ſpoils and depredations by Sea, and take the Goods of the Kings Subjects. (2.) Becauſe they carry the Kings Subjects into miſerable Captivity. (3.) Becauſe of the preparation of Shipping that is made *undiq;* to infeſt the Coaſts. (4.) *Quia periculum*, &c. (5.) *Quia pro defenſione Regni, tuitione Maris*, &c. (6.) *Quia pro repulſione*, &c. (7.) *Quia Progenitores noſtri Reges Angl' Dominium Maris temporibus*, &c. (8.) *Quia onus defenſionis*, &c. (9.) The moſt prevalent, *Quia hoc per Legem & Conſuetudinem Angl'*, &c. The Body of the Writ containeth ſeveral Mandates to the Sheriff, and Head Officers, *quod fide & ligeantia*, &c. *ſicut nos & honorem diligitis*. The *Mandates* are ſix. (1.) To provide a Ship of 450 Tunns, well-armed, and furniſhed with Proviſion, and that was to be in readineſs by the firſt of *March*, to continue for the ſpace of 26 Weeks, *ad proficiſcend' cum Navibus noſtris pro tuitione Maris*, &c. (2.) *Mandate* was a command unto the Sheriff, and the Head-Officers, that they ſhall meet within 30

An. 1637. days, and ſet down what ſhall be taxed upon the incorporate Towns. (3.) A *Command* unto the Head-Officers of thoſe incorporate Towns, that within their Bayliwicks they make an Aſſeſſment upon particular Perſons, and compel them to pay the ſame. (4.) A *Power* unto the Sheriff to Aſſeſs all within the reſidue of the County, *juxta ſtatum & facultatem.* (5.) A *Command* for the levying of thoſe Sums by diſtreſs, *ut contra rebelles*, to impriſon their Perſons. (6.) That no part of this Sum collected ſhall be converted unto any private uſe; but if any Money be remaining, it ſhall be paid *inter ſolvenda.*

My Lords, the *Reaſons* expreſſed in the Writ might juſtly ſatisfie any Man's Judgment without further Argument; but I ſhall clearly manifeſt, there is no Clauſe or Particle in this Writ, but is verified by many Records, and is *ſecundum Legem & Conſuetudinem Angliæ.* The Queſtion that is made is of a high and tranſcendent nature: It concerneth the King in thoſe Caſes, where He in His Royal Judgment ſhall conceive a *neceſſity* for the Defence of the Realm, to command Shipping in this kind; whether by His *Royal Power* He can do it, or muſt require the Aid *per Commune Concilium in Parliament*. And I conceive His Majeſty may do it, not only by His Kingly Prerogative, but *Jure Majeſtatis.* This Power is not only *inter Prerogativa Regis*, *ſed inter Jura Summæ Majeſtatis.* I find by many Records, that theſe Writs have iſſued out in all ſucceſſion in the times of the *Saxon* before the Conqueſt. But I never find that this Power was ever Judicially queſtioned in any Court at *Weſtminſter.* I find queſtion made touching Aſſeſſments, whether they have been equal; touching the levying, whether within the Warrant of the Officers; touching the diſcharging of ſome by reaſon of a Grant of exemption: but to queſtion the main Power, whether the King by His Royal Power might command this for the defence of Himſelf and the Kingdom, was never diſputed. But His Gracious Majeſty, who hath declared Himſelf, that He will rule His People according to His Laws; for the ſatisfaction of the People, and to clear His Juſtice and Judgment, doth ſuffer theſe Writs to go forth, to which ſome have demurred, and to be queſtioned in this Legal way to be determined by your Lordſhips, to which I hope you will give a clear end.

My *Poſition* ſhall be this, That the King, as He is King of *England*, *pro defenſione Regni, tuitione Maris*, &c. *When His Majeſty in His Royal Judgment conceiveth it time of danger, as doth neceſſarily require the Aid commanded in this Writ, that He may command and compel His Subjects*, per totam Angliam, *to ſet forth Ships with Men and Munition*, and *double equipage*; and *this may be done as well by the Kings Writ under the Great Seal, as conſent in Parliament.* For the Proof of this *Poſition*, I ſhall reduce what I have to ſay to theſe Heads. 1. That this Power it is *inter Jura Summæ Majeſtatis innate in the Perſon of an abſolute King*, and *in the Perſons of the Kings of* England; ſo inherent in the King, that it is not any ways derived from the People, but reſerved unto the King, when Poſitive Laws firſt began; and that in this Caſe the King is the *Sole Judge* of the danger, and how this danger is to be prevented and avoided: This is my firſt Ground. The ſecond is this, That this Regal Power it is not confined to the politick advice, that the King muſt be in *Cathedra*

13 *Caroli.*

Cathedra ſitting in Parliament. But that it hath been always done, either *per ipſum Regem, aut per Concilium, aut per Dominos ſuos, aut per Regem*, when He ſhall pleaſe to call a Conſultation of Merchants and Portſmen experienced in the Service.

My Lords, upon this Head I ſhall prove unto your Lordſhips, that this Power is ſo inherent in the King, that during the time of Parliament, and in thoſe years when Parliaments were ſitting, that theſe Writs iſſued out by a Regal Power, without any Power of Aid in Parliament; and that Advice was not thought neceſſary in former times. In the third place I ſhall ſhew your Lordſhips out of the very Title which the Common Law of *England* giveth to the King, that this Power is implyed out of His *Sovereign Title* given unto Him by the Common Laws of *England*. In the fourth Place I ſhall inſiſt upon Preſidents, and herein I ſhall deſire you to take notice, that theſe Writs have not iſſued out at the firſt upon any ſudden advice, but that there was a great ſearch made firſt by my Predeceſſor Mr. *Noy*, a Man of great Learning and profound Judgment; other Searches made by the Kings Counſel, and ſome others; and a great number of Records were conſidered of, and maturely, before theſe Writs iſſued; ſo nothing was done upon the ſudden. And we that are of the Kings Counſel did think it fit, that moſt of theſe Records ſhould be cited in the firſt Argument by Mr. *Solicitor*, to the end that the Counſel at the Bar might give an Anſwer in their Reply. Many other Records have been added by Mr. *Solicitor*, and many more I ſhall cite which have not been remembred.

My Lords, in the vouching of theſe Records I ſhall obſerve eight things. Firſt, That the Records we inſiſt upon, they are not grounded upon any private Cuſtom, upon any Charter, upon any Covenants, but upon *the Law of the Land*. And there is not in any of theſe Records any recital, that theſe Writs went out upon any of theſe Grounds. 2. That in all Ages before the Conqueſt, and in the time of *William* the firſt, that theſe Writs have iſſued, *per ipſum Regem, per Regem & Concilium*, and did not iſſue by any Advice in *Parliament*. 3. That theſe VVrits were ſent out, not in Caſe of *Hannibal ad portas*, or an Enemy diſcovered, or ſudden Invaſion, but in Caſe of *rumors of dangers*, and in that a danger might happen; ſo not in approach of an Enemy, but in Caſe of preparation to be provided againſt an Enemy. 4. That the King did command Shipping to be ſet forth, and in thoſe years wherein there were Parliaments, and ſitting Parliaments, and by His Regal Power, without advice in Parliament. 5. That great Subſidies and Aids have been given unto the King in Parliament, *pro defenſione Regni*, in the ſame years that VVrits went forth for the Defence of the Kingdom. 6. That thoſe Aids have not only been required from the Maritime Parts, the Ports, nor from the Maritime Counties, but from the In-land Counties, as this Caſe is *Buckinghamſhire*, and *per totam Angliam*. 7. That many times when theſe VVrits iſſued, there hath been no ſuch Cauſes declared, as hath been in this VVrit. I ſhall obſerve, that in many of theſe VVrits no cauſe at all was ſet forth in them, but only that they ſhould repair to the place of Randezvous, and there receive further direction. 8. I ſhall verifie every Clauſe of this VVrit by many Preſidents. A *Mandamus*,

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damus, and not a *Mandamus Rogantes*. Shipping at the charge of the County and aſſeſſment by Sheriffs as Commiſſioners, and a penalty greater, not only Diſtreſs and Impriſonment, but *extent* of Lands, ſeizing of Goods till the King were paid. Theſe are the things I ſhall obſerve out of the Preſidents when I come unto them.

My Lords, In the fifth place, when I have laid theſe foundations, I ſhall then diſpel thoſe miſts that have been raiſed, remove thoſe Forces that have been muſtered, and anſwer the Objection of thoſe Gentlemen that will not be defended by the Kings Writ under the Great Seal. And in this give a particular anſwer to the Acts of Parliament, that they have cited, to the Records that they have inſiſted upon, to the Reaſons and Authorities. And I ſhall anſwer their exceptions that have been taken unto the ſeveral Writs, Records, and Proceedings thereupon. In the ſixth place I ſhall collect ſome concluſions and reaſons out of the Premiſes, and cite unto your Lordſhips ſome Judicial Records, that may ſatisfie your Lordſhips in point of Judgement. Theſe are my Materials, I ſhall proceed unto the Building.

My Lords, *My firſt ground was, that this power was innate in the perſon of an abſolute King, and in the perſon of the King of* England. All Magiſtracy is of nature, and obedience, and Subjection is of nature; and before any poſitive Laws were written, or any municipal Law, people were governed by the Law of Nature, and Practiſe did rule according to natural equity: this appears in the Reports of Sir *Edward Cook*, written by him when he was Chief-Juſtice, 7 Report *fol.* 13. I will not take occaſion to diſcourſe, either of the Law of Nature, which doth teach us to love our Country, and to defend it, and to expoſe the Hand to danger rather than the Head ſhould ſuffer: nor of the Law of God, which commandeth obedience and ſubjection unto the Ordinances of Superiors: nor of the Law of Nations, which doth agree, that there muſt be protection from the King, and obedience from the People; and without defence there can be no protection, and without aid of the People there can be no defence: nor of the Imperial Law, which ſaith, that in caſes *pro utilitate* the King may *ſtatuere* alone.

My Lords, I will upon this Subject confine my ſelf to the Law of the Land, and inſiſt upon ſuch Records, and ſuch Preſidents, and ſuch Reaſons, and ſuch Authorities as I find both by Record of former times and by our Books. 1. In the original government of this Nation I do not find the contrary, that there was a great number of Petty Regiments. And when *Julius Cæſar* did invade this Realm, he writeth that there were four Kings in *Kent*, and other places; and *Strabo*, *lib.* 4. ſaith the like.

So thoſe times will not be material. During the domination of the *Romans* from *Julius Cæſar*, which continued 500 years, the *Romans* had their Prefects here in *England*; no man will doubt but they might command what they pleaſed: that in their times there were ſpecial Officers called *Comites*, and Officers appointed by Sea, and others by Land. Thoſe that ſucceeded the *Romans* were the *Saxons*, and in their times both by antient Grant, and by Edicts of the Princes of thoſe times, that this Naval Power was commanded

manded by them for defence of the Realm. Firſt to begin with King *Inas*, *Anno Dom.* 725. King of the *Weſt Saxons*. This King in that year made a grant to the Abbot of *Glaſſenbury*, *Quod, &c. ſint quieti ex omnibus Regis exactionibus & operibus*, except *expedite Arcium, Pontium, &c. conſtructionem ſicut in antiquo, &c.* Which ſhews that theſe expeditions were accuſtomed to be done. *Wuldredus*, King of *Kent*, he in the year 742. granted to His Churches, *quod ſint liberi ab omnibus ſecularibus ſervitiis*, except *expedit. pontis, &c.* ſo in that grant theſe expeditions were excepted. 13 *Caroli.*

Ethelbaldus, King of the *Mercians*, *Anno* 749. granted *Monaſterio de, &c.* except *ut ſupra:* So that as in this time the ſervices were common, and were done *a dicto Regis*, that the Churches ſhould be free from all ſervices but theſe three of expedition, of building Caſtles, Bridges and Forts, *A quibus nulli unquam laxari poſſunt.*

Egbert, *Anno* 846. commanded a great Navy to be provided, and that was for the defence of the Realm and ſafegard of Ships.

Ethelwald that was King of the *Weſt Saxons*, *Anno* 854. granted to the Church that it ſhould be free from all Services temporal, except *Regalibus Tributis*. In the time of King *Alfred*, who was the firſt Monarch and King of all *England*, there was one ..... who was a Privy Councellor in his time, and writ his Life and the Story of his Time, and he in his ninth page ſaith, *quod Rex Alfredus juſſit Gall, longas Naves, &c.* and agreeing with the Hiſtory of *Wigorenſis* 316. *Huntington* 351. wherein your Lordſhips may ſee by the Records, that it was done *ex præcepto Regis per totum Regnum.*

This King made a Law (which is not remembred by *Lambert* in his *Saxon* Laws) to this ſubſtance; that no man upon Summons by the Horn or word of Mouth ſhould ſit ſtill in matter of Theft, Bloodſhed or going to War, whatſoever his expedition ſhould require: and there he doth mention it to be upon pain of forfeiture of Life and Death. King *Edgar* who ſtiled himſelf *Angliæ Baſilius*, he in the year 959. provided a mighty Navy of 3600 Ships, as ſaith *Wigornenſis* and *Math.* of *Weſtminſter*; and he gave a Command that every year at *Eaſter* a Navy of 3 or 4000 Ships be ſet out and divided into three parts, *Eaſt*, *Weſt* and *North*. The Ships in thoſe times were not ſo great as now they be. The ſame *Edgar* in the year 973. granted unto the Abby of *Thorney* all manner of Immunities, and that it ſhould be free, except thoſe three defences of building of Bridges, Caſtles and Forts. And the ſame King, in his Charter to the Church at *Worſter* granteth unto them to be free *ab omnibus exactionibus*, except *conſtructionem Pontium, Arcium, &c.* My Lords, by all theſe ſeveral grants, and what hath been done by thoſe Kings it doth appear, that theſe three fundamental ſervices were reſerved unto the Crown, ſaving ſome two or three Abbys which had ſome particular exemption. In the year 1008. which was remembred by Mr. Solicitor, there was then a great Navy prepared by King *Ethelred*. The words are thus, *Rex Ethelredus per totam Angliam ex* 310. *Hidis Navem unam, &c. præparare fecerit*, That was for every 310 Hides of Land to build one Ship, and every eight Hides to find a Man and a Corſlet, and to meet at *Sandwich* for defence againſt the *Danes*, This

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Sir H. Spelman.

This appeareth, *Huntington* 360. *Math.* of *Weſtminſter* 387. *Hovenden* 426. *Malmsbury* 100. In this Record theſe things are obſervable. 1. *Rex parare facit & Rex juſſit*, then *per totam Angliam*, all *England* was to be charged by the *Gloſſary* of that Learned and *Judicious Antiquary*; it appears that *virgata terra continet* 24 *Acras*; upon caſting up of this it doth appear, that there be in *England* 363600 Hides, every 310 Hides being to ſet forth one Ship, the whole number amounteth to divers thouſands, and every 8 Hides to ſet forth a Souldier 45450 men; but it is not the number but the matter that is done by the Kings Command *per totam Angliam*.

In the thirteen year of King *Ethelred* he made an Edict, which Mr. Attorney cauſed to be read in Court, ſaying he had it out of an old Book at Cambridge, *quod inſtaurant tiel nomber de naves per ſingulos Annos, &c.* I read it to this purpoſe, to ſhew that in the 30*th* year of his Reign there was a Naval expedition always to be ready at *Eaſter*, and ſheweth the penalty of ſuch as did depart without licenſe.

King *Canutus*, *Lambert*, *fol.* 117, 118. *ex ſapientium Concilio, &c.* ordained a Command among his temporal Laws, *Cap.* 10. *quod præſidii fiant, &c.* Command Shipping to be provided, and *fol.* 118. a penalty upon thoſe that did refuſe to pay 120 *s.* which was a great ſum in thoſe days. That which I do obſerve out of theſe two, were theſe; 1. That they were made by the King by the advice of his Lords; that there was to be yearly preparation for ſhipping. Thoſe that departed out of the ſervice, were to incur the forfeiture of all their Eſtates. *If theſe Edicts were Acts of Parliament, they ſtand unrepealed, and if no Acts, then they ſtand by Command from the Kings power.*

My Lords, I have ſhewed unto your Lordſhips the practice as it was before the time of *William* the firſt. He did not abrogate the former Laws, but was ſworn to obſerve them. Nay, it was ſaid, he did confirm *Antiquas Leges & Conſuetudines Angliæ*; So as then, if theſe were the Laws, and the ancient Kings of *England* had before his time, he did ratifie and confirm it, but not diminiſh it. This Power of commanding of Shipping, for the defence of Realm, it is a principal part of the Royal Power. This Kingdom, it is a Monarchy conſiſts of Head and Members, the King is the Head of this Politick Body, it conſiſts of Clergy and Laiety. It is furniſhed with intire Power and Juriſdiction, not only to miniſter Juſtice in cauſes Eccleſiaſtical and Temporal unto His People, but likewiſe for defence both of the one and the other. This Power I find to be mentioned in the Regiſter of original Writs before the Conqueſt; 127. *b.* it reciteth, that *Nos inconſideratione ad providendum ſalvationem Regni noſtri, &c.* It appears by *Stamford* in his Prerogative, *Cap.* 1. That as the King is the moſt excellent and worthieſt part or member of the Common-wealth, ſo is He alſo the Preſerver, Nouriſher and Defender of His People. I find it in *Forteſcue*, which they have cited, that a Common-wealth without this Head were but a Trunk. I find it in *Fitz. Nat. Bre. fol.* 73, or 173. that the King of Right ought to defend the Realm, as well againſt the Enemies at Sea, as againſt other Enemies, that it be not ſurrounded, nor waſted. How is this defence againſt the Sea and Enemies, is the

13 *Caroli.*

the King bound to defend the Realm by Sea-walls at his own Charges? No, the Power of the defence is a Superintendent Power in His Majeſty to authorize Sheriffs and Commiſſioners to ſee it done, but by His Power, yet at the charge of the People, *Regiſter* 227. *b.* It appeareth there where the King commandeth His People by His Writ, one directed to the Sheriff, the other to Commiſſioners, and in both Willeth and Commandeth *quod diſtringat A. B. & alios*, to diſtrain the Lands of all thoſe that may receive damage to repair to the Sea-banks, as well as the Terrtennant. This Writ was before any Statute, for the Regiſter was before the Conqueſt; and the firſt Statute that concerneth Sewers was made 6 *H.* 6. ſo it is by the power the King had at Common-Law, and not upon any Statute; and this was to the Sheriff as well as to Commiſſioners: and that it was done at the charge of the Country, and not at the Kings charge, *Pat.* 23. *E.* 1. *m.* 4. *dorſ.* agreeth with the Regiſter. The King doth there recite *quod ratione dignitatis Regis, &c. & per juramentum ſumus aſtricti ad providendum ſalvationem Regni*, and there he giveth power to Commiſſioners to diſtrain the People to make defence againſt the Sea at their own charges, *Pat.* 2. *E.* 3. 2. *m.* 5. *dorſ.* in the Caſe of *Wiſeman*, 2 *Rep. fol.* 15. The King *ex officio* is to govern his Subjects in peace and tranquillity, 7. *Rep. fol.* 9. protection of the King is generally over all the Kingdom. There is reaſon why it ſhould be thus, for the King of *England* he hath an entire Empire, he is an abſolute Monarch; nothing can be given unto any abſolute Prince, but is inherent in his Perſon, as may appear both by Books, Records and Acts of Parliament, *Brac. lib.* 2. *fol.* 55. *b. Sciendum, &c. Dominus Rex ſuper omnes, qui ad Coronam pertinent.* This appeareth likewiſe in the Statute 24 *H.* 8. there it is declared, that this Realm of *England* is one Empire, and hath been ſo accepted in the world, Stat. 25 *H.* 8. *c.* 21. 1 *El. c.* 1. 1 *Jac. c.* 1. the Crown of *England* is affirmed to be an Imperial Crown, and Acts of Parliament proove the higheſt nature, 16 *R.* 2. *c.* 5. that the King holdeth his Empire immediately of the God of Heaven, and at His Coronation the Crown is elevated as a ſignification thereof: this is likewiſe acknowledged in the *Iriſh* Reports, *fol.* 60. *Rex Angl. eſt abſolutus. Forteſcue* ſaith the King of *England*, as well as any other King or Emperor, hath all his liberties within His Kingdom *in Imperio ſuo.* The Law of *England* maketh the King of *England* not as His Subjects, nor a natural Body, but a politick Body, freeth him from all imperfection or infirmity; he is immortal, he never dieth, the King ever liveth, 1 *Com.* 177. 11 *Rep.* 7. 21. *E.* 4. and other Records.

My Lords, As he is an abſolute Monarch, ſo all theſe *inter jura ſummæ Majeſtatis* are given unto His Perſon by the Common-Law. 1. He hath Supreme Dominion both by Sea and Land: this is proved by *Mirror*, the greateſt part whereof was written before the Conqueſt, ſome things added to it by *H. Horn* in the Reign of *E.* 4. he concludeth all Lands, and all Juriſdiction, and all Dominion is derived from the Crown, that whatſoever was not granted from the Crown remaineth in the Perſon of the King. This *ſupremum dominium* is ſo inherent in the Kings Perſon, that if the King grant away His Lands *abſque aliquo reddendo*, yet the tenure muſt ſtill remain to the King.

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8 *H.* 7. 12. 30 *H.* 8. 45 *Dyer.* This Dominion is not only upon the Land, but it is upon the Sea. And so the King He hath not only a Dominion by Sea, but He is *Dominus Mar' Angl'*, &c. He is both an owner of the Sea, and Soil under the Sea. And so it was lately resolved by my Lord Chief-Baron, and the rest of the Barons of the *Exchequer*, in the Case of *Sutton Marsh*, That the Soil of the Land, as the Sea floweth and re-floweth, is the Kings, and the King is seized thereof *Jure Coronæ*, *Mirror* 8. only the Dominion of the Sea, but the very Soil thereof belongeth unto the King.

Next place, He hath, besides His *Supremum Dominium*, a *Sovereign Jurisdiction*, and that extends both by Sea and Land: 1. For creation of all His Majesties great Officers and Judges, creation of the Admiralty time out of mind. 20 *H.* 7. *fo.* 8. 12 *H.* 7. 17. Power to make Justices could not be granted; and all these Powers resumed in the Statute, as inherent in the Crown, *&c.* Surely this Jurisdiction by Sea did not begin in the time of *R.* 1. when those Laws were renewed by Him at His return from the Holy-Land. But there were Admirals in *England*, and the Admiral-Law by Sea long before 27 *E.* 1. A famous Record in the *Tower*, that the Commissioners for the Emperors of *Spain* and *France* did appear before the Kings Commissioners, and did acknowledge, the Sovereignty of the King of *England* upon the Sea did belong unto Him time out of mind. And for further proof of this, it appeareth likewise in that Learned Book of Mr. *Seldens* (*Mare Clausum.*)

My Lords, The next inherent Power of the Crown is 1. Pardons, 2. Restitutions, and 3*ly*, Pardoning of Condemned Persons, which none can do but the King Himself, 1 *H.* 4. *fo.* 5. 20 *H.* 7. 8. The 4*th* is *Jus nummi percutiendi*, a setting of a Royal Stamp upon His Coin, and the debasing of it, 21 *E.* 3. 6. That the King only can put a Value upon it, 5 *Rep.* 114. That the King by His absolute Prerogative may make any Forreign Coin lawful Money of *England*, by His Proclamation, *Daves Rep. fo.* 20.

Next is, *Jus Sum' Majestatis*, that of concluding War and Peace, which is absolutely inherent in the Kings Person, which He may do without calling of His great Council, 19 *E.* 4. 6. That all the Subjects of *England* without the King, 7 *Rep.* 25. cannot make War *Bellum indicere*. And to make Aliens Denizens, is a Point of High Prerogative.

My Lords, This Trust that the King hath for making of War and Peace, and for the Defence of the Realm both by Sea and Land, it is a great Trust inherent in the Person of the Crown. No Man ought to mistrust where the Law doth trust. There is an Objection: If it should rest in the Power of the King, He might do it, where there should be no ground for it, and without cause, and cause Forces to be mustred, and Ships provided, where there is no eminent danger, in such a manner as it might be grievous to the People. These are Objections clearly against presumption of Law; for where the Law trusteth we ought not to distrust. The King, as appeareth by all our Books, is the Fountain of Piety and Justice, and will do right unto His Subjects, 1, *Com'* 240. All Justice is derived from the King, 13 *E.* 4. 8. The King can do no wrong, *Bract. lib.*

lib. 3. *ca.* 9. 8 *H.* 6. 20. Royal Power *de aver Correction de luy m'*; He is the ſole Judge, and we ought not to queſtion Him, *Bract. Rex non habet Superiorem niſi Deum*, 11 *Rep.* 72. The King is the Fountain of Juſtice and Common Right. And the King being the Lieutenant of God cannot do wrong, 17 *E.* 3. 59. The King could not be made an Inſtrument of coven and fraud, but the Patent was void, 5 *Rep.* 14. That *Religion, Juſtice and Vertue are the ſure ſupporters of Crowns and Diadems*, 24 *E.* 3. 42. *Stamford's* Pleas of the Crown, 72. At the Common Law, if the King commit a Man by His *Bouche*, he is not repleviable. The Law doth not diſtruſt where the King committeth a Man; but it is upon juſt cauſe, and we are not to doubt it. And therefore at the Common Law *ca.* 15. a Man committed by the King was not repleviable. Nay, if he were committed by his Council, that was his repreſentative Body, not repleviable: Shall we then, when the Law hath committed this Power unto the King, who is the Fountain of Juſtice and Equity, who is truſted by the Law of the Realm, and the Common-Wealth, miſtruſt Him? Shall we think that ſucceeding Kings will do that which is not fit to be done? I ſay, if the Law truſt them, we ought to truſt them. But for a further Reaſon; Thoſe that are His Delegates and Judges, ought not to be miſtruſted. That which the Judge doth, as in his Office, ſhall not be aſſigned for error. If it be ſo in the Delegates Power, much more in the Primitive and Fountain. 5 *Ma. Dyer.* 163. The Court of *Kings-Bench* did receive a Record of *Niſi prius*, the *Poſtea* Returned by the Clark, and the death of the Juſtice of Aſſize aſſigned for Error, and could not be received. So 1 *Ma. Dyer* 89. a Writ of *Error* to reverſe a Fine, *prout en Dyer.*

That is the reaſon of the Book 7 *H.* 7. *fo.* 40. 10 *H.* 7. 28. *Fitz. Nat. Bre.* ſaith the Books, he cannot aſſign for Error, nor ſhall not be admitted to alledge any thing contrary to the Office of a Judge, as to ſay the Judge did not give right Judgment, or the Clark did not make right Entries, *M.* 7 *E.* 1. *coram Rege.* And that is the reaſon why a Man of *Non compos mentis* in a Fine, and ſuffering of a Recovery, it ſhall not be aſſigned for Error againſt the Acts of a Judge, 8 *Rep. fo.* 121. Doctor *Bonnors* Caſe, Record by a Judge or Juſtice of Peace not traverſable.

(Good my Lords,) Then if by the Laws of the Kingdom one ſhall not be admitted to receive an averment againſt any Acts done by your Lordſhips, the Judges, againſt Acts done by inferior Judges; ſurely in this, where the King is abſolute Judge, it ſhall not be averred, to ſay it was no cauſe of danger, or that is done by the King which ought not to be done.

Bract. lib. 1. *ca.* 24. *eſt in Corone Regis.* The King is ſo abſolutely truſted with this Defence, that the Subject cannot make a Fort or Caſtle upon his own Free-hold without the Kings Licence. That appeareth in the old *Magna Charta*, *fo.* 162. Enquiry made of thoſe that do build Forts and Caſtles without the Kings Licence, *Rot. Parliament.* 45 *E.* 3. *N.* 34. 6 *H.* 4. 59. and in a Book of *Long*, 5 *E.* 4. *fo.* 129. That a Subject cannot make a Fort or Caſtle without the Kings Licence, not in his own ground.

13 *Caroli.*

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My Lords, The King hath ſo diſcharged this Truſt, that though there were no account unto His Subject, yet theſe Ships that have been commanded, was but *ad proſiciſcena' cum Navibus noſtris.* The King hath been at greater Charge with theſe Ships gone out, than ever any King of *England* ever was, as will appear by thoſe vaſt Sums of Money the King hath ſpent theſe years, beſides what hath been contributed unto by His Subjects.

My Lords, I have done with my firſt Poſition, That the Kings of *England* have done this before the time of *William* the firſt: That it was an inherent Right in the Perſon of the King of *England*, and that the King is the ſole Judge both of, and when, and how the dangers are to be avoided.

It hath been objected, that the King of *England* may do it, but how? It muſt be according to the Inſtitution of the Laws of the Realm. There muſt be a Concurrent Power, a Politick Advice in Parliament; and ſo it may be done: But the King, either by His ordinary Power, or abſolute, without the aſſiſtance of the great Council, He cannot do it, as hath been objected.

2. Therefore in the ſecond place I ſhall come to the ſecond thing I did propoſe, and that was, that the King, as He is King of *England*, that He alone, for this common Defence of the Realm, without the Aid of Parliament, that he may *Statuere*, &c. That the King, by advice of His Council, when He pleaſe may do it: That He may ordain ſeveral ways by the Inſtitution of the Common-Law, by His Ordinance, by His Proclamation, by His Patent, by His VVrits, and by His Judges. That this may be done by Him; (1.) It is agreeable to reaſon; for Kings were before Parliaments, and then ſurely they might have done it. All Juſtice doth flow from the Crown; and originally, as it was in *Moſes*, ſo it was in the Kings of *England*, only in the Kings Perſon: But afterwards the King did depute His Deputies, and gave other Powers. This is no conceit of mine, 12 *H.* 7. *fo.* 17. 6. *per Fineaux.* There was a time when there were no Municipal Laws, when Poſitive Laws were not eſtabliſhed, when Kings did rule their People according to natural Equity; and then ſurely the King might ordain, no Man will queſtion it; ſince there hath been Poſitive Laws, and Municipal Laws, the Kings of *England* they have ordained, as by theſe ſeveral Records cited appears. It appears by the practice that hath been ſince the time of *W.* 1. That the Kings of *England* in all thoſe VVrits, that they have ordained the iſſuing of thoſe VVrits; The number of the Ships, the times of meeting, the manner of Munition, and the ſtay for the Defence, *quam diu nobis placuerit.* I have made a Collection of what hath gone out by the King Himſelf, what *per Regem* and His Council, and what by the Advice of His Council, and with advice of Merchants and Portſ-men. But they are ſo infinite, and ſo many of them, that I will not trouble your Lordſhips with Repetition.

Theſe Ordinances concerning the Defence, they are ſuitable and agreeable to the Ordinance the King maketh in other Caſes, wherein the King alone doth ordain, as by His Proclamation, *Clauſ.* 24 *E.* 1. 3. *pſ.* 2. *M.* 2. *Dor.* The King by His Proclamation commanded all Earls, Barons, Knights, Eſquires, and other Men

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at Arms, that none of them ſhould depart into Forreign Parts. *F. N. B.* 85. He agreeth it, and ſaith the Book, He that ſhall tranſgreſs this Proclamation, ſhall be fined for his diſobedience. And this Command may be under the Great Seal, or Signature, or Privy-Seal: For, ſaith the Book, the Subject is to take notice of any of the Kings Seals. So in all Ages, *Clauſ.* 24. *E.* 3. *M.* 7. *Dorſ.* 4 *H.* 8. 11 *H.* 7. 23. The King granted a Proclamation for Recreations, as by *Juſting*, or the like, that He may command *Jus* by His Proclamation. And if one of the Two that is fighting be killed, it is no Felony; but if done without the Kings Proclamation, it is Felony, 5. *Rep.* 114. The King, by His abſolute Prerogative, may make any Coin of Money by His Proclamation. 13 *Caroli.*

Next place the King may ordain by His Patent alone, 40 *E.* 3. *fo.* 17, 18. The King did grant a Priviledge unto the Scholars of *Oxford*, That they ſhould have the choice of Inns in *Oxford*, which was before there was any fair Colledge in *Oxford*: ſaith the Townſ-man, this is my Free-hold, they cannot do it; ſay the Judges, this is a good Patent, and is in favour of Learning, and therefore a good Ordinance. So the Juſtices in *Eyre* may take up the principal Inn. If the King make a Corporation, is there any thing more uſual, than for the King to give Power to the Corporation to make Ordinances for common good? 49 *E.* 3. 162. Shall it be ſo in the Creature, and not in him that makes the Creature? A Caſe or two upon every one of them. The King may ordain by His VVrit, and that appeareth 9 *E.* 3. 16. A VVrit of *Ceſſavit* againſt the Tenants of *Northumberland*: The Tenants have been mightily oppreſſed by the *Scots*; they petitioned the King, and ſaid, they were not able to pay their Land-lords their Rents, by reaſon of thoſe incurſions upon them by the *Scots*, and deſire ſtay of Suit; and there it appeareth the King did ordain by His VVrit, thoſe Suits upon thoſe Reaſons ſhould not proceed againſt the Tenants for Non-payment of their Rents: out of the ſame Reaſon are the VVrits of Protection.

Then the King and His Council may ordain; for that I find *M.* 4. *H.* 3, *Fitz. Dower* 179. VVrit of *Dower* there brought by a *French* VVoman; the Tenant of the VVrit pleaded, That there was an Ordinance of the King and His Council, *quod nullus de Regno Franciæ*, &c. That is, that no *Engliſh* Man ſhould be compelled to anſwer any *French* Man or VVoman in a Legal Suit, till the *Engliſh* were anſwered in *France* to their Suits; there 39 *E.* 3. 7. *per Thorp.* The King and His Lords may make an Ordinance, which ſhall be binding as a Statute, *Rot. Fr.* 72 *E.* 3. *M.* 6.

Upon Ordinance of the King and His Council I can ſhew above 40 VVrits that have gone out unto the Nobility, Clergy, Arch-Biſhops and Biſhops, and to all the Kings Subjects, to aid for the Maritime Parts, *Rot. Fr.* 22 *E.* 3. *M.* 16. & 50 *E.* 3. *M.* 41. *Do.* 24 *E.* 3. *M.* 6. That of 24 is to thoſe In-lands within ſix Miles of the Sea. 40 *E.* 3. *M.* 37. The like VVrits awarded to moſt of the Maritime Counties, upon pain of the ſeizure of their Lands and Goods: So likewiſe for Proviſion for the Army the King and His Council hath ordained, both for Markets to be kept within ſuch a diſtance of the Army, and VVine ſold there, and no where elſe, *Rot. Sco.* 10. 12 *E.* 2. *M.* 13. *Dor.* So they have ſet down the number

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My Lords, If the King may at all times of danger, by His Proclamation, by His Patent, by His Writs, by the Advice of His Council, ſurely in Caſes of neceſſity it is much more, for *neceſſitas eſt Lex temporis*, where a Defence by Sea and Land is neceſſarily required, *M.* 12 *Car'* opinion, That Men might be compelled to bring in their Proviſion to the Market, whether they will or no, 5 *E.* 4. 6. 14 *H.* 7. 29.

Jurors are by Law to hold together till they give their Verdicts; yet otherwiſe if the Houſe be like to fall over their Heads, 38 *H.* 6. 11. Upon a *Præcipe* the Tenants may be excuſed, if he could not paſs the Waters.

My Lords, I find that in Legal matters the King, by the Advice of His Judges, who are His Councel, may ordain, that the Judges are the Kings Councel in Legal Matters, 19 *E.* 3. 17. 4. *Fitz. Judgment*, 27 *H.* 6. *fo.* 5. Court of *Kings-Bench* called the Kings Councel, 6 *E.* 1. the King and His Judges make certain explanations upon the Statute of *Glouceſter*, as appeareth by *Magna Charta*; and what was done then by the Judges Advice, is the force of a Law at this day. So as you ſee by the Laws of *England*, as well in other Caſes, as Caſes of Defence, the Law hath given the King of *England* this Power to ordain for the good and ſafety thereof. I find that in all Ages, and in all Times, all the Incidents to a Defence, as well as this principal part, hath been given to the King Himſelf, as He is King of *England*. (1.) For the Murage of Towns, that the King hath commanded the Murage of Towns to be done at the Peoples charge. And ſhall His Power extend to particuler Cities, as Towns? and ſhall not He command for the Defence of the Wooden-walls of the Kingdom? *Rot. Alur'* 12 *E.* 3. *pſ.* 2. *M.* 10. The King commandeth, by Writ, a Place to be Fortified towards a War approaching, and every Man having Rent there to contribute, or be compelled by diſtreſs; this was commanded to be done, by the Writ, *Pat.* 12 *E.* 3. *pſ.* 3. *M.* 5. appeareth it was done. The King impoſed a certain Rate upon all Goods and Merchandizes that came unto *Kingſton* upon *Hull*, and commanded, that this ſhould be imployed to the Walling of the Town. And this was *de voluntate Regis*; this appeareth 19 *E.* 2. *pſ.* 1. *M.* 12. There was the ſame Command for *Dover* and other Towns, ſame Roll in 22. *Pat.* 12 *E.* 3. *pſ.* 3. *M.* 14. *Dor.* A Writ for the repairing of the Walls of *Wincheſter* at the Subjects Charge, *Rot. ibidem M.* 15. The King by ſpecial Grant gave Power to the Major and Burgeſſes to Aſſeſs the Inhabitants for the Defence of the Town, *Clauſ.* 1. *R.* 2. *M.* 12. *Oxford* was commanded by the King to be fortified at the Inhabitants Charge, *Cl.* 12 *E.* 3. *pſ.* 3. *M.* 32.

The King commanded particular Subjects to fortifie their Caſtles at their own Charges in time of danger, *Pat.* 1. 8 *E.* 3, *M.* 9. The King taketh the Caſtle of the Subjects into His own Hands in times of danger, *ad defendend' contra Inimicos*, &c. *Clauſ.* 13 *E.* 3. *pſ.* 1. *M.* 36. *Dor.* the King, by the Advice of His Councel, did ordain, That the Town of *Southampton*, *pro ſalvatione ejuſdem*, ſhould build

build a Wall. My Lords, The King may command the walling of the Town at the Charge of the Inhabitants; He may likewiſe command the Defence of the Kingdom by Sea. So for other incidents of Defence; as for erecting of Beacons upon the Sea-Coaſt, *Rot. vaſ.* 11. 12 *E.* 3. *m.* 29. *Dor. Combuſt' inſigniis*, &c. *Clauſ.* 1 *R.* 2. *m.* 4 *Dor. de ordinatione pro vigiliis*, &c. So likewiſe the King in all Ages hath commanded the imbarging of Ships for the Defence of the Realm, and for all publick Service; this appeareth *Clauſ.* 14 *H.* 3. *m.* 17. *Dor.* All Ships arreſted that could carry ſixteen Horſe, *Rot. Sco.* 10 *E.* 3. *M.* 2. *Dor. omnes Naves pro defenſione*, &c. *Rot. Alm.* 12 *E.* 3. *M.* 23. *pſ.* 1. *a.* & 12. For Imbarging of Ships for the Defence of the Realm. So likewiſe the King commandeth and appointeth who ſhall be Officers, who ſhall be Admiral of the Fleet, who ſhall be *Cuſtodes Marit'*, as appeareth *Pat.* 19 *E.* 2. *m.* 7. *Dor.* and in the ſame Roll, *m.* 10. *Pa.* 15. *Jo. m.* 6. *Pat.* 48 *H.* 3. *m.* 5. *Clauſ.* 23 *E.* 3. *m.* 5. *Dor.* and an infinite number more, then the Country paid the Charges of thoſe who had *Cuſtodes Marit'*; that appears *Fra.* 21 *E.* 3. *m.* 31. *Dor. Clauſ.* 13 *E.* 3. *pſ.* 1. *m.* 14. *Dor.* The King, when there was cauſe, He moderated the expenſe, *Clauſ.* 25 *E.* 3. *m.* 16. The King did order how much, and how long the County ſhould pay for Wages, and commanded the ſtay of thoſe that would have been gone before their time: And this appeareth *Pat.* 48 *E.* 3. *m.* 4. *Clauſ.* 48 *H.* 3. *m.* 2, & 3. *Dor.* then it appeareth by many Records, that this Guard of Sea-Coaſts to be accordingly, as the King ſhould order and direct, ſometimes *per Regem, per nos & Concilium*, &c. and this appeareth *Clauſ.* 23 *E.* 1. *m.* 5. *Dor. Clauſ.* 13 *E.* 3. *pars* 2. *m.* 14. & *Pat.* 23 *E.* 1. *m.* 1. Sometimes the King, out of His Royal Power, hath been pleaſed to give diſcharges unto particular Men, to be diſcharged from this *Cuſtod' Marit'*; this appeareth *Clauſ.* 23 *E.* 1. *m.* 5. *Dor.* Ports diſcharged, becauſe the Ships were in the Kings Service, *Clauſ.* 8 *R.* 2. *m.* ½. Diſcharge as to the Abbot of St. *Albons*, *Pat.* 12 *E.* 3. *pars* 2. *m.* 8. *Pat.* 12 *E.* 3. *pars* 1. *m.* 14. Diſcharges *de Cuſtod' Marit'*. Then the Power of puniſhing thoſe Men who ſhould neglect thoſe Commands hath been always in the King, and to be puniſhed by His Commiſſioners, or by His Writs, and that in a high manner. That there hath been Commands by Diſtreſs, by Impriſonment, upon ſeizures of Lands, Goods, and Forfeitures of all that they had; and this appeareth *Pat.* 48 *H.* 3. *m.* 5. *Dor. Cl.* 48 *H.* 3. *m.* 3. and a great number in the time of *E.* 2. and *E.* 3. The King hath ſo far medled in this Buſineſs, that though it hath been the Money of the Country, yet the King hath appointed the Pay-maſter. *Clauſ.* 48 *H.* 3. *m.* 2. In the Caſe of danger the King ſendeth forth a Writ *de veniendo ultra debitum*; ſo when a Service was due, as by the five Ports, to find Ships, yet in time of danger command laid upon them, *ultra debitum Servitium*, as appeareth *Rot. Sco.* 10 *E.* 3. *m.* 20. *Cl.* 16 *E.* 2. *m.* 13. So all Arrays for muſtering of Men between ſixteen and ſixty have been in all Ages, and by the Kings Command to be in, and continue in readineſs, ſo long as the King ſhall pleaſe, *Rot. Alm.* 12 *E.* 3. *pars* 2. *m.* C. *Dor.* So, my Lords, it doth appear by theſe Preſidents that have been cited, by theſe Records, and by theſe Book-Caſes, That the Kings of *England* in all Ages have given command, and made Ordi-

13 *Caroli.*

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My Lords, I promiſed upon this Head to make it good, that in theſe times, and in theſe years, wherein there were Parliaments, that though the Parliaments did determine concerning the Land-Forces, and the going of the Kings Army into *Scotland*, that yet the Parliament ſitting, the King hath commanded the ſetting forth of Ships by His Writ; this was ever left unto the Royal Power. For the proof of this there was 24 *E.* 1. a Parliament, as appereth in the Printed Books; yet we find in that year, the King hath commanded the ſetting forth of Ships at the Charge of the Subject, *Pat.* 24 *E.* 1. *m.* 17. Command to take up 100 Ships; and in *P.* 24 *E.* 1. *ex parte Regis, Rem' Exchequer Rot.* 22. Command, *pro Cuſtod' Marit'*, 9 *E.* 2. Parliament holden at *Lincoln*; and yet in the ſame year Writs went out to provide Shipping, as appeareth by *Rot. Pat.* 9 *E.* 2. *pars* 2. *m.* 26. I find that there was a Parliament holden 12 *E.* 2. This appeareth in the Book of Statutes, *Rot. Sco.* 11. 12 *E.* 2. *m.* 8. The King recites certain Inrodes made upon the Men in *Northumberland, Et quod de Communi Concilio* held at *York, Ordinavimus*, &c. and Aſſigns the Earls of *Pembroke*, and Biſhop of *Norwich, ad requirend'*, *Norfolke & Suffolke, juxta diſcretiones veſtras Subſidium facere per Naves*, &c. *per tempus* 3 *vel* 4 *Menſium.* At this time there was a Proviſion by Parliament for the Kings Service by Land, and for his Armies to meet him at *New-Caſtle*, and for two Reaſons, why *Navale Subſidium* ſhould be neceſſary: 1. To hinder the bringing of any Victuals into *Scotland.* 2. For the free entercourſe of Trade, ſo as you in this year, wherein a Parliament was holden, this *Navale Subſidium* was commanded by the Kings Writ without any Act of Parliament; though the Writ was for *Norfolk* and *Suffolk*, yet the like was for *Dorſet*, *Somerſet*, &c. It appeareth likewiſe 10, 11 *E.* 3. which were thoſe great years of ſending out of Writs, that then Parliaments were holden: and ſo it doth appear by the printed Book of Statutes; yet in that year of 10. *Clauſ.* 10 *E.* 3. *m.* 37. *Do.* a Writ directed to the Major and Bailiffs of *Briſtol*, with a Command, that all Ships of 40 Tun, *& ultra*, ſhould be ſeized, 10 *E.* 3. *m.* 21. *Do.* Command that the Ships ſhould be ſent forth for the preventing of danger; and that no Forreign Ships come in to aid the *Scots*, *Membr'* 21. *Dor.* ſame Roll, Command to the City of *London* to ſet forth Ships at their own Charge, *Sco.* 10 *E.* 3. *m.* 21. *Do.* Writs to the Sheriff of to ſend Horſe-men and Foot-men to the County of *Southampton.* So there were Men drawn out of their own County, and the refuſers were called their Rebels, *Rot. ibidem m.* 21. *de Navibus pro defenſione Regni.*

My Lords, There was ſomething more obſervable in this year of *E.* 3. for ſome of the Writs that went out beareth *Teſte* 3 *Octob. Sco.* 10 *E.* 3. *m.* 7. and mentioneth a Parliament, but did not go out by any Ordinance of Parliament; and by the Royal Power, which is a ſtrong Argument, there needeth no Aid of Parliament for the King to command His Forces; 11 *E.* 3. was likewiſe a Parliament, as appeareth in the Printed Book of Statutes: Writ dated 10 *Jan.* 17 *E.* 3. *m.* 2. *Do. per ipſum Regem*; Ships are commanded *pro guerra ſuper Mare, Vaſc.* 10 *E.* 3. *m.* 6. *Do. Procla.* to ſeveral Counties,

ties, that all Ships be in a readineſs; 12*th* year of *E.* 3. Parliament ſummoned at *Northampton*, *Cl.* 12 *E.* 3. *pars* 2. *m.* 1. ſame Roll, *pars* 3. *m.* 22. *Do.* and yet this ſame year the King commanded Shipping at the Charge of the Counties, as appeareth 12 *E.* 3. *pars* 1. *m.* 12. *Cl.* 12 *E.* 2. *pars* 3. *m.* 29. And in the 13*th* year of *E.* 3. was likewiſe a Parliament holden; and that appeareth *Parl'* 13 *E.* 3. *m.* 9. 12. Printed Statutes make no mention of a Parliament then. 13 *Caroli.*

My Lords, In this Record theſe things are obſervable, cited, and made uſe of by the Defendants Counſel, a ſtrong Record as any can be againſt them.

In that Parliament, the King He did pray the Advice of the Commons in Parliament, touching His Wars with *France*, and the guarding of the Sea-Coaſts: The Commons make anſwer, *Prient les Commons que ils ne Counſel doner al choſes de quel ne pas Conizance*, &c. They ſay further, and they grant, That the Maritime Towns ought to make the Guard upon the Sea without Wages taken, and the In-land Commons upon the Land. Two things that are obſervable in this Record: 1. When the King to deſcend ſo low as to pray the Advice of the Commons in Parliament, and Aſſiſtance, for the Guarding of the Sea: The Commons diſclaimed and ſaid, they have no Juriſdiction &c. And yet the Defendants Counſel did preſs, that now the King ſhould ask the Advice of the Commons in Parliament, a thing diſclaimed 13 year *E.* 3. to have any Juriſdiction. 2. By this Record the Maritime Parts ought to guard the Sea at their own Coſts; this though it be granted in their Petition, it was not granted by the King: For it appeareth in the ſame year, *Rot. Alm'* 13 *E.* 3. *m.* 13. *Do.* that King *Edward* in that year heard of ſome Preparation in *France*, commanded Ships for three Months, *Cl.* 13 *E.* 3. *pars* 1. *m.* 14. That in ſeveral Counties Men were diſtrained for payment of Wages for the Archers, and others that guarded the Sea-Coaſts. It appeareth by thoſe Records, that both the Guard of the Sea and Sea-Coaſts was done *juxta Ordinationem noſtram*, Order made by us and our Counſel, *Rot. Alm'* 13 *E.* 3. *m.* 15. *Do.* The King appointed the Arch-Biſhop of *York*, *Hugh de Peircy et al'* for that purpoſe, &c. So, my Lords, I have done with the ſecond Ground, that is, That the King is ſole Judge of this, without His Parliament.

That the Commons in Parliament have diſclaimed to have any Cognizance of it.

That in the ſame year where Parliaments were holden, the ſame years the ſame Writs have iſſued without Advice in Parliament.

The third thing that I did propoſe, was thoſe *Supreme Titles* which the Common Law of *England* giveth unto the King, which may inforce this. *Bra. lib.* 2. *Cap.* 24. ſaith, That the King is *Vicarius Dei*, His Power ſurely, as was agreed, is *Jure Divino*; God is the God of Hoſts, and the King is a Model of God himſelf, 40 *E.* 3. *fo.* 18. The King is the chief Guardian of the Common-Wealth: The Sheriff hath *poſſe Comitatus* under the King, the Kings Vicegerent in his County; this Power not only for the execution of Legal Proceſs, but for the Defence of the Realm, 12 *H.* 7. *fo.* 7. This delegate Power of the Sheriffs, is as well for De-

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fence, as Execution of Proceſs; Shall the Sheriff do it and not the King? 10 *H.* 3. *fo.* 1. The King is the Conſervator of the Law, 20 *H.* 7. *fo.* 4. *Rex eſt Capitalis Juſticiarius totius Angliæ*; He is not only to maintain Juſtice in Courts of Juſtice, but to protect and defend His People. *Stamfords* Prerogative *Cap.* 1. The King is the moſt worthy part of the Body of the Common-Wealth, Preſerver, Nouriſher, and Defender; and by this they enjoy their Lands, Goods and Lives, 11 *Rep.* 7. 6. *Maudlin* Colledge Caſe. *Rex eſt Medicus Regni, & ſponſus Reipublicæ:* It is the part of a good Phyſitian, as well to prevent Diſeaſes as to cure them; and an Office of a good King, as well to prevent danger as to remedy it, *Com' fo.* 130. He is the Soul that animates the Body of the Common-Wealth, and we ought to move as He moves, 11 *Rep. fo.* 72. the Fountain of common Right; therefore we have no reaſon to ſtain the Fountain. I am now come unto my fourth Proof, which is by Preſidents; wherein I ſhall be ſomewhat long; and therefore I humbly crave leave to argue another day.

The End of Mr. Attorney-Generals firſt day's Argument.

Mr. Attorney General his ſecond days Argument for the King in the Caſe of Ship-Money, Dec. 1637.

MAy it pleaſe your Lordſhips to remember I ſhewed you by Charters Aids, and by a great number of Preſidents, that this Regal Power was in the King of *England* before the Conqueſt; and that though ſome were exempted from the ſetting forth of Ships, by Grant unto ſome particular Men, or ſome particular Churches; yet theſe three fundamental Services of Expedition, repairing Caſtles, and making of Bridges, *&c.* were always excepted: Then I ſhewed by a great number of Preſidents, that not only the Principals, but all Acceſſories that concern the Defence of the Realm, both by Sea and Land, have been always commanded by the Kings; the fortifying of Towns and Caſtles, and the Murage of Towns, the appointment of Admirals of the Fleet, and thoſe that ſhould be Guardians by Sea and Land, the Imbarging of Ships, and Arrayes of Men, erection of Beacons, diſcharging of others upon juſt cauſe, by puniſhing of thoſe that were Rebels; and all this was done by the Kings Command, *per ipſum Regem aut per Regem & Concilium*, without any Aid in Parliament. Likewiſe I have made it appear unto your Lordſhips, That the King is the *Sole Judge* of the Defence, that the King is not to be miſtruſted in the execution of His Office as King, nor your Lordſhips as Judges are to be miſtruſted.

I have now ſhewn out of the Preſidents, That in thoſe years, wherein there have been Parliaments, and ſometimes ſitting, the Parliament Writs have iſſued *per ipſum Regem, aut per Regem & Concilium.* I ſhall now proceed to make good the other Particulars which I have opened unto your Lordſhips. 1. That theſe Preſidents which have been ſhewed, and which I ſhall ſhew unto

your

your Lordſhips, that they have not been grounded upon any particular Covenant, Charter, Cuſtom, but upon the Law of the Land, and upon ſuch Reaſons as are univerſal, and binds all the Kings Subjects, as well Clergy as Laity. For this I ſhall remember *Cl.* 48 *H.* 3. *m.* 3. the Writ doth recite, *Quod tam Milites & Liberi tenentes & omnes alij*, &c. *ad defenſionem Regni teneantur*, *Cl.* 9 *E.* 3. *m.* 11. *pro defenſione Regni omnes teneantur*, *Sco.* 10 *E.* 3. *m.* 12. *Quia quod omnes tangit per omnes ſupportari debet.* And the ſame Roll, *m.* 20. *Do. Ex ligeantia ad defenſionem contra hoſtes Aggreſſus Inimicos manus apponere*, *Malm.* 12. *E.* 3 *m. Do. omnes & ſinguli tenentur, & ſe & ſua exponere*, ſame Roll *m.* 21. *Do. omnes & ſinguli ad defenſionem Regni ſunt aſtricti.* And I think every Man will acknowledge himſelf to be bound out of his Allegiance, *Malm.* 13 *E.* 3. *m.* 13. *Do. ex ligeantia ad defenſionem Regni, & veſtrum & veſtrorum*, ſame Roll *m.* 17. and there be ſeveral Writs unto all the Biſhops of *England*, *quod invenerint homines ad Arma pro defenſione*; Frankalmaine Tenure was no Plea againſt this Service, *Rot. Franc.* 46 *E.* 3. *m.* 34. There was a Writ directed to the Biſhop of *Canterbury* for the Arming and Arraying of all Eccleſiaſtical Perſons within his Province; the like to the Biſhop of *York* for the Arming and Arraying of all Eccleſiaſtical Perſons within his Province; the like to the Biſhop of *Durham* in the ſame Roll; ſo it extends to all the Kings Subjects, and to the Clergy as well as to the Laity: Nay, it doth appear, that theſe Towns, and theſe Ports, that were obliged to do particular Service; that yet in caſe of an extraordinary Defence, that there the Writs went out not only to perform the ordinary Service, but Services *ultra debita*. The Cinque-Ports, by the Charter *E.* 1. was to ſet forth 52 Ships at their own Charge for 15 days; yet we find by divers Writs, and in ſeveral Kings Times, that the five Ports have been required to do further Service, Arreſts have been made of their Ships *ultra Servitia debita*, *Sco.* 10 *E.* 3. *m.* 23. *Do.* 28. *Do.* There was a Command, That all their Ships of 40 Tun ſhould be arreſted for the Kings Service; and ſo likewiſe, ſame Roll *M.* 22. That all Ships of the five Ports, *tam majores quam minores*, ſhould be arreſted, *Malm.* 13 *E.* 3. *m.* 13. *Omnes Naves qui tranſire poterint* arreſted to the five Ports; ſo then for the Councel on the other ſide, to tell us of particular Rolls, that theſe and theſe Towns were obliged to do theſe Services; this, under favour, is no VVarrant, for though they be obliged to do theſe Services; yet upon the occaſions to take all their Ships *ultra Servitia debita*, *Cl.* 16 *E.* 3. *m.* 13. *Do.* The King writeth unto divers Earls, Barons, and others, in this manner, *Quod ſint tam citius*, &c. *quam poterint parati*, at ſuch a place beyond your Service, with Horſe and Arms, and come to our Town of *New-Caſtle* upon *Tyne*; ſo as the Writ was directed to all the Lords Spiritual and Temporal, and all the Kings Subjects, but not only with their due Service, but beyond their Service, to be at *New-Caſtle*; ſo as your Lordſhips ſee the Motives, the Grounds, and the Reaſons of theſe Writs are univerſal, they concern not particular Port and Subject, but all the Kings Subjects, and they are generally *ex ligeantia ſua debita*; ſo as that is the firſt thing I would obſerve unto your Lordſhips, That theſe Writs and Preſidents are grounded upon the Law of the Land, and not upon particular Truſt. 13 *Caroli.*

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The ſecond is this, That all theſe Writs have iſſued by the Kings Mandate, either by the King, or by the King and His Council, without Advice in Parliament, of which I have made a Collection, which is better for me to attend your Lordſhips withal, than to cite them, becauſe there are above 500; wherein I have diſtinguiſhed what hath been awarded *per Regem*, and what *per Regem & Concilium*, and where the advice of particular Merchants and Portſ-men were required, *Sco.* 11 *E.* 3. *m.* 2. *Do.* 19 *E.* 3. *pars* 1. *m.* 26. *Do.* And in theſe the advice of particular Men were called to aſſiſt the King and His Council. Now, my Lords, if before the time of *William*, and ſince the time of *William* the firſt, for many hundred years together, that this hath been done, ſhall not theſe Preſidents make a Law-Rule of our Books? that Preſidents that are not againſt the Law, nor contrary to the Rules and Reaſons of the Law, they make a Law; that appeareth by 4 *E.* 4. *fo.* 43. The Chancellor ſent forth a Writ of Error, the Judges take exception both to the matter and to the manner, ſaith the Book, becauſe it hath been always uſed; for the Preſidents make a Law, though the Writ were contrary to Law and Reaſon, 33 *H.* 6. *fo.* 20. An abſurd Return made by Sheriffs, yet becauſe Preſidents to warrant it, a good Return, 20 *R.* 2. *fo.* 7. Where a Duty was to be paid to a Corporation of Major and Commonalty, the Duty being to be paid to the Body, and an Acquittance to be had from them; but becauſe it hath been uſed, the Major alone to make the Acquittance, a good Acquittance, 2 *Rep. Lanies* Caſe. The King ſhall not part with his Intereſt without the Great Seal: But yet a Leaſe for years, under the Great Seal of the *Exchequer*, good by Cuſtom, 4 *Rep.* 9. That the Preſidents of a Court are good againſt the expreſs words of a Statute: Having ſo many Preſidents, I will not trouble you any longer, though I have reſerved a ſpecial place for the anſwering of Objections; yet to ſuch Objections as fall materially in the way I ſhall give an Anſwer, though reſerve the Anſwer of the main Objection unto the fifth place. It hath been ſaid by Mr. *Holborne*, That here hath been a diſcontinuance of time; and that ſince the time of 50 *E* 3. none of theſe Writs have iſſued: Shall diſcontinuance of time take away the Kings Right? If there have been no uſe within the time of memory, yet if this have been an inherent Right in the Crown of *England*, ſhall the Crown loſe it by diſcontinuance of time againſt the Rules of Law? 10 *H.* 4. *fo.* 6. Where the King is a Founder of a Biſhop or Abbot, and is by common Right to have a Corody, though not uſed, that the King hath not demanded it in time of memory, yet the King ſhall not loſe it, *N. B.* 5. Writ of Right brought by the King, wherein muſt alledge Seiſin, will you bind the King to alledge a Seiſin in Him and His Progenitors? For if once the King had a Seiſin, protract of time ſhall not diſcontinue it, 22 *H.* 7. *fo.* 20. The Stat. of *Mortmaine* confineth the Lord to enter within a year and a day; but it ſhall not bind the King, for He may do it at any time, 35 *H.* 6. *fo.* 26. If a Villain do alien the Land, it bindeth not the King, *Plenartie* 6 Month no Plea againſt the King, 6 *Rep.* 20. No diſcontinuance of time if the King hath a Right, 7 *E.* 4. 30. If an Alien and another Man purchaſe Lands together, and the Alien die, the King ſhall not be prevented by Survivorſhip, and

and in Perſonal Goods you ſhall raiſe no preſcription againſt the King, 35 *H.* 6. *fo.* 27. there is no Man can pretend a Title to the Kings Goods, for Waifs, Strays or Wrecks, for no preſcription can invade the Kings Profit, but then they ſay, that the Preſidents are not in all times, for we have not ſhewn, nor cannot ſhew, that in all times theſe Writs have iſſued. A ſtrange objection in all times. My Lords, It is a caſual Service. In all times, God be thanked, not that occaſion or neceſſity of this Defence: VVill you have us ſhew Preſidents for a Caſual Service? 4 *Rep.* 10. If a Man hold to do Service to his Lord, to go with him into the War of the King, this is out of the Stat. of Limitation; for it may happen not once in 200 or 300 years; therefore the Law doth not require you ſhould have a Seiſin for this, for it is caſual; that is the reaſon that Homage and Fealty and caſual Services, they are out of that Statute of Limitations; ſo as now by the ſame reaſon, that they would tie us to Preſidents, where there was no occaſion; by the ſame reaſon the Tenants are to do Homage, or go into Wars, when there was no occaſion; but beſides, he is much miſtaken, for theſe Preſidents did not end with *E.* 3. 7 *R.* 2. *m.* 18. 13 *H.* 6. *m.* 10. 14 *pars* 1. *m.* 14. a great number of Ships commanded then in the Kings Service; but it hath been ſaid, That the People have always petitioned againſt it, and there hath been a decrying by the People; they have petitioned in Parliament, and theſe things good by Cuſtom, muſt gather ſtrength by a conſent; and that further, when Petitions have been preferred, the King hath not denied the Petition expreſly.

My Lords, I ſhall ſhew, when I come to a particular Anſwer to theſe Records and Petitions, that they have mentioned, That notwithſtanding theſe Petitions, this Service hath been always continued; and for the Anſwer that he ſpeaketh of, that they have not been denied: Theſe are the words, *Le Roy adviſera*; we may know whether this be an expreſs denial or no; ſo though the King take time to adviſe of the Parliament, of His Commons, this is no Argument, but that it is a *mannerly kind of denial*; beſides, in the very years of 13 *E.* 3. the Writs for the Shipping Buſineſs went out by the Royal Power for the ſame year; then it hath been ſaid, that we can make no Preſidents of this; for though Writs have gone out, yet it doth not appear, that theſe Writs have been put in practice, nor any execution of it; but the Services have been done, as appeareth by the Monuments of Times; then it doth appear by other Records, that the Wages of Mariners were paid by the Country theſe very years, *Cl.* 20 *E.* 2. *m.* 6, 7. It doth appear, that ſome particular Men that had particular diſcharges, either becauſe they were in the Kings Service, or in *Gaſcoigne*, or lived in the Sea-Coaſts, that they pleaded their diſcharges, and had the ſame for that reaſon, 23 *E.* 1. *m.* 14. So as, my Lords, upon this ſecond Ground, that theſe Writs have gone forth thus conſtantly in ſeveral Ages, that there being ſuch a number of Preſidents, that the diſcontinuances have been even when there was no occaſion: That the Preſidents of the Courts of Juſtice make a Law, and diſcontinuance cannot take away the Kings Title. This is the ſecond that I do inſiſt upon, and that theſe Preſidents make a Law.

The

An. 1637.

The third thing I ſhall obſerve upon theſe Preſidents is this, that theſe Writs have gone forth, not only in Caſes of an actual War, or in caſes of an Invaſion, when the Fleet hath been upon the Seas, but by way of preparation before-hand, when the Enemy meant to come, and in contingent Caſes when the King might conceive any danger might enſue, but in theſe Caſes Writs have iſſued, that will appear, *Cl.* 48. *H.* 3. *m.* 2. the Writs are here in Court, *cum neceſſe ſit ad defenſionem Regni eſſe promptum, &c. Cl.* 23. *E.* 1. *M.* 5. *dorſ.* there was ſeveral writs directed unto divers Earls, Biſhops and others *de Cuſtod. Marit.* the words are theſe, *quia volumus quod partes Marit. in Com. Eſſex, &c. contra Inimicos diligenter cuſtodiend. partes illas ſi venire contingent*, 24 *E.* 3. Remembrance in the Exchequer upon information, that there was 1000 Men in *Flanders*, and preparation to come unto *Yarmouth* to burn the Town, Writs ſent forth by the Treaſurer and Barons *ex officio* to be in readineſs, in cauſe there was Invaſion, *Pat.* 9. *E.* 2. *pars* 2. *M.* 26. Writs directed to all the Port Towns between *Southampton* and *Thames*, to ſet forth Ships at their own charge for the better defence of the Kingdom, and againſt others that commit depredations upon the Sea, as well to our men of this Kingdom, as to others coming to our Kingdom, *Sco.* 11. 12 *E.* 2. *M.* 18. the King by ſeveral Writs directed to the ſeveral Commiſſioners in ſeveral Counties, reciting the proviſion made for his Army in Land at the laſt Parliament, and ſaith, *nos conſiderantes ad expeditionem præd. tam ad impediend. Scotos quam pro Cuſtod. Maris, &c.* And ſo commandeth for that purpoſe, that Ships ſhould be ſent forth out of ſeveral Counties for theſe two Cauſes, The one to hinder Victuals going into *Scotland*, the other for free entercourſe of Trade, that appeareth in the 10*th* year of *E.* 3. that the Ships of *France* were not upon our Sea-Coaſts, but were in *Britain* and in *France*, and yet the King upon relation that they have an intention to invade the *Realm*, did ſend forth for the providing of Ships into moſt parts of the Realm, this was only upon information, *Sco.* 10. *E.* 3. *M.* 30. *ut audivimus M.* 13. *ut intelligimus, M.* 16. 22. *quod auditum, M.* 18. *do.* 12. *do.* 5. *do. in portibus tranſmarinis parat.* ſo by the Records this preparation of Ships was only upon information, *Fra.* 26. *E.* 3. *M.* 5. *quia vulgaris opinio noſtrum Regnum Angl. invadere*, therefore commandeth Shipping by Sea, and Forces by Land, *Fra.* 10. *R.* 2. *M.* 23, 24. *quia cert. Rumores quod Francia infra breve tempus hoc Regnum invadere*, and for the reſt commandeth the cuſtody of the Sea and the Sea-Coaſts, ſo as it doth appear by theſe Records, that upon an Information or Conjecture of the King, that he may ſend forth theſe Writs, and command His Subjects to be in readineſs in caſe that danger might happen, better ſo than to receive a blow, and then to make preparation for defence, we ſhould buy that with repentance, *prudentiſſima ratio qui timor Belli, &c. præparavit*, and ſurely when the King ſeeth theſe preparations abroad, the great Armies in adjacent Countries, great reaſon we ſhould be in preparation; this is not only conſonant to Preſidents, Wiſdom of Time, Policy of State, but to the reaſon of our Common-Law. If a man be in fear that another man lyeth in wait for him to do him a miſchief, ſhall he ſtay ſtill he receive a wound? 17. *E.* 4. 4. in this Caſe he may have

a Writ

a Writ to bind him to the Peace, 13 *H.7. fol.* 17. if a man have a warranty for his Land, ſhall he ſtay till he be impleaded? No, a *Warantia Charta* lyeth till he be impleaded. If Lord and Tenant in antient demeſn, and the Lord will require that other ſervices of his Tenant than he ought to perform, ſhall the Tenant ſtay till there be a Diſtreſs taken, nay, he ſhall have his *monſtraverunt*, *F. N.* 40 *E.* 3. *fol.* 45, 46. and this only upon a verbal demand of ſervices, ſhall then the Common-Law of *England* ſecure the Subject not to ſtay till a preſent danger, but ſhall have his *war' Charta monſtraver'* before Diſtreſs taken, and ſhall not the Common-Law provide for the King, that he in his expectation of danger make his preparation, for ſurely theſe Preſidents are according to reaſon of Law. 13 *Caroli.*

The next thing that I did obſerve out of theſe Preſidents was, that in theſe very years where there have been aids granted to the Crown, *pro defenſione Regni*, and in the very year theſe Writs have iſſued out of the Royal Power, *Cl.* 48 *H.* 3. *m.* 2. 3. *dorſ.* there was then a tenth given by the Clergy *pro defenſione Regni*, and yet in that year he did command the defence of the Realm both by Sea and Land, and that appeareth *Pat.* 48. *H.* 3. *m. c. dorſ. Cl.* 48. *H.* 3. *m.* 30. in the 22 *E.* 1. the King had given unto him in Parliament *pro ſubſidio guerræ* a tenth of all moveable Goods which was to be collected in the 23*d* year, as appeareth *Pat.* 22. *E.* 1. *m.* 2.

My Lords, This very year wherein this was paid, he commanded a great number of Shipping for the defence of the Coaſts, and that appeareth *Pat.* 23. *E.* 1. *m.* 6. Writs were directed unto divers Sheriffs of divers Counties, *Suſſex*, *Southamton*, *Dorſet*, &c. commanding them to be aiding and aſſiſting to *William Thornton* in the taking of all the Ships of thoſe Counties, *Pat.* 23. *E.* 1. *m.* 7. *Commiſſion. Radulphus de Salvica ad providendum de Navibus, ita quod fuit quandocunque mandamus*, ſo to be in readineſs with all Ships in thoſe parts that were of 40 Tunn, *m.* 5. ſame Roll Writs directed to moſt of the Sheriffs of *England* to be aſſiſting to *John de Barwick* to the chuſing and ſending forth Archers *ad proficiſcendum in Fleta noſtra*, ſo as they were not only brought out of their own Counties, but out of all the Counties in *England ad proficiſcendum*. My Lords, This 23*d* year wherein the grant was of the tenth of all the moveables, *Pat.* 2. *E.* 1. *m.* 7. the King writeth to all the Archbiſhops, Earls and others, reciting that he hath committed the Cuſtody of the Sea to *Will. de Stocks, ita quod idem Will. omnes, &c.* naming the Archbiſhops, Biſhops, Earls, *&c. compellere, &c. prout neceſſe fuer.* ſo as you ſee the greateſt Subject is not exempted from theſe Commands, but ſhould be *auxiliantes, reſpondentes & intendentes*, *Cl.* 23. *E.* 1. *m.* 5. *dorſ.* the King commanded the Biſhop of *London* and *Norwich* for the ſafeguard of the Sea-coaſts, *Pat.* 23. *E.* 1. *m.* 1. A Command unto all Archbiſhops, Abbots, Earls, Barons, Knights, and others commanding them, to be aiding unto *Adam de S. ita quod idem Adam compellere poſſet quoties neceſſe, &c.* ſo *Cl.* 23. *E.* 1. *m.* 5. *dorſ.* the like Command; ſo as, my Lords, in thoſe times which were 23. *E.* 1. when there was an aid granted by Parliament, it doth appear theſe great defences both by Sea and Land were commanded.

My Lords, 10 *E.* 3. in a Parliament holden at *Nottingham*, there was a fifteenth granted to the King for three years, and ſo it was recited

An. 1637. recited in the Record, and appeareth likewiſe, *Pat.* 12. *E.* 3. *m.* 2. *pars* 3. *Cl.* 12. *E.* 3. *m.* 28. *pars* 3. it appeareth that a tenth and fifteenth granted to the King in Parliament, and this was *tam pro defenſione quam pro arduis negotiis*, 12. *E.* 3. the Prelates and Lords, and Commons, at a Parliament holden at *Weſtminſter* gave the King 10000 *Sacks of Wooll*, ſaid to be given *pro defenſione Regni*, as appears *Rot. Alm.* 12 *E.* 3. *pars* 1. In the ſame year there was granted likewiſe *pro defenſione Regni medietat. Lanar.* the moity of all their Woolls. *m.* 31, 32. *dorſ.* 2.

In the ſame year of 12. *E.* 3. the Clergy, they gave the King in Parliament *medietat. Lanar. uſque viginti mille Saccar.* as appeareth *Cl. R.* 12. *E.* 3. *pars* 3. *m.* 13.

Cl. 12 *E.* 3. *pars* 2. *m.* 1. *dorſ.* and in this 12 year of *E.* 3. the King collected a tenth and fifteenth that was granted unto him by the Laiety in Parliament, as appeareth *Cl.* 12 *E.* 3. *pars* 3. *m.* 30. 1. & 28.

And beſides all this the Clergy gave the King a tenth *Cl.* 12 *E.* 3. *pars* 3. *m.* 30. 1. theſe I cite more particularly becauſe no memory of them in the Printed Statutes.

Were all theſe Aids granted 10, 11, 12 *E.* 3. *pro defenſione Regni*, and ſhall the King in theſe very years ſend forth Writs for the defence of the Sea and the Kingdom? Now, my Lords, in this 12*th* year wherein all theſe great aids were granted *Rot. m.* 12 *E.* 3. 1 *pars m.* 12. that *Walter de M.* was appointed Admiral of the Fleet towards the *North*, and appointed Commiſſioners *ad aſſidendum Villas bonis & Catallis ad contribuendum, &c.* and Commanded all Sheriffs and Officers to be aſſiſting, ſo as by this Record it doth appear that in the 12*th* year Ships and Forces were commanded, *Cl.* 12 *E.* 3. *pars* 1. *m.* 17. *dorſ.* Commanded by the King, that the men of *Surry* and *Suſſex* ſhould have their Goods ſeized, and their Perſons impriſoned if they refuſed to contribute towards the charge for Shipping. *Alm.* 12 *E.* 3. *pars* 1. *m.* 2. a Commiſſion to *William de B.* and others, *ad aſſidendum Omnes homines juxta ſtatutum, &c.* and to ſeize their Goods and Chattels to contribute for the wages of Mariners for the Ships, ſo as your Lordſhips ſee by that Record, though there be Aids, Tenths, Subſidies and Fifteenths granted by the Clergy and Laiety, yet in that very ſame year if any extraordinary occaſion, though Ships not upon the Sea, the King hath commanded the defence of the Sea and Land at the charge of the Country; I have done with the fourth particular.

The fifth particular is this Aid, and theſe Contributions, they have not been required from the Maritime Towns, but from the Inland Counties *per totam Angliam*; and this materially is to be inſiſted upon, becauſe we are more in an Inland County: the County of *Bucks*, my Lords, this was done before the conqueſt, your Lordſhips have heard, for *Alfred* the firſt Monarch 827. *juſſit omnibus, &c. per totam Angl.*

Arthurus Minuenſis Aſſerminuventis fol. 9. *Wigor. Florenz Feb.* 316. *Huntington* 354. that King *Elthred* did the like 1008 *per totam Augl.* every 310 Hides to find one Ship. *Nat.* of *Weſt.* 387. *Huntingdon* 365. about 30 year of King *Ethelred* was that Ships ſhould be prepared againſt *Eaſter*; and thoſe Laws which are remembred in *Lambert* which were before the Conqueſt 10. *Cap.*

fol.

13 *Caroli.*

fol. 106. *quod, &c.* —— *&c.* ſo it was general and univerſal throughout the Realm, concurring with theſe antient Preſidents and Councils ſince the time of *Will.* the firſt, *Cl.* 48. *H.* 3. *m.* 2. For where a Record is to be applied unto ſeveral purpoſes, I muſt mention the Record: again it appeareth by the Record of *Bedfordſhire*, which is an Inland County, was charged with the guard of the Sea-Coaſts, and paid for Wages, ſame Roll *m.* 3. in *M.* 20. *dorſ. Rutland, Oxfordſhire* and *Dorſetſhire*, Inland Counties, charged for the ſame ſervices, *Pat.* 48. *H.* 3. *m.* 7. *Cambridge* and *Huntingtonſhire* charged for the like ſervice, and that they ſhould do *prout Concilium noſtrum ordinatum, &c.* 24 *E.* 1. Kings Remembrancer ſide *Rot.* 77, 78, 79. title *de* —— *pro Cuſtodienda Maris*, and Writs went out for Ships into divers Counties, and amongſt others to *Buck-ſhire*, *Pat.* 26. *E.* 4. *m.* 21. when there was a complaint that the Subject did ſuffer upon undue levies, the Commiſſioners that are directed for enquiry, directed to all the Counties of *England*, as well Inland as Maritime: It proveth this Cuſtody of the Sea was as well by the Inland Counties, as by the Maritime, 23 *E.* 1. *Pat. m.* 5. that men to furniſh a Fleet were drawn and commanded from the moſt parts of the Kingdom, *Sco.* 10 *E.* 3. *m.* 14. Inland Counties charged with Shipping for the defence of the Kingdom, as *Cambridge, Huntington, Nottingham, Darby, Cl.* 13 *E.* 3. *pars* 3. *m.* 14. *dorſ.* And there *Oxfordſhire* is charged with *Cuſtod. Marit. Sco.* 12 *E.* 3. *dorſ. de Bedfordſhire, Buckinghamſhire* (your County) and *Darbyſhire* there charged with the ſame defence, *Cl.* 1. *R.* 2. *M.* 18. there *Cambridge* and *Huntington* were to provide a Barge at their own charge, and yet no ſeafaring men there, and like Writs were directed to *Nottingham* and *Darby*, though they had none, yet they had money and means to provide them.

Fra. 7. *R.* 2. *m.* 18. The King ſends His Writs into moſt Counties of *England*, as well Inland as Maritime, reciting that the King of *France* was gone with an Army into *Flanders*, that *Callice* was in danger, and commandeth that all Knights, Eſquires and Archers, and every of them according to their Eſtate and Faculty be ſufficiently arrayed and armed, and come to the Port of *Sandwich ad proficiſcendum, &c.*

My Lords, In this Record there was a mention of *Buckingham, Bedford, Huntington Cambridge, Nottingham, Darby, Exeter, Rutland, Northampton, Bucks* and *Berks*, all theſe Inland Counties; the words of the Writ are, *quod omnes tenentur pro defenſione Regni, Cl.* 9. *E.* 3. *m.* 12, *vel* 20. *quod, &c.* all and every of our Kingdom out of their Allegiance to be ready to defend the Realm, 13 *E.* 3. *dorſ.* a great number of others, by all which it doth appear, 1. That the ſervice was commanded from thoſe Inland Counties. 2. That the ſame reaſons which are given extend to bind the Inland Counties as Maritime Counties.

Pat. 23 *E.* 1. *m.* 6. for the taking of Ships in the County of *Suſſex, Devon, Middleſex* and other Counties, if ſo be the Maritime Counties be in danger, ſurely the Inland Counties cannot be in ſafety; we are in an Inland County, and if an entry upon any part, it concerns the ſafety of us all.

And by the rule of the Law, every one that is to receive a benefit, is to give a Contribution, as the Caſe of 16 *H.* 7. *fol.* 13.

An. 1637. all Feoffees, whoſe Lands were liable unto a Statute, the one ſhall have contribution againſt the other.

If 4, or 5. Cognizors in a Recognizance, all ſhall have Contribution one againſt another 46 *E.* 3. Parceners upon whom a warranty deſcendeth, they ſhall be equally charged.

If a man bind himſelf and his Heirs in an Obligation, having Lands, part by his Father and part by his Mother and deſcend to ſeveral Heirs both equally charged, as it is the third *Rep.* 13. *Herberts* Caſe, ſo I go upon theſe reaſons, that it is conſtant to Reaſon and the Law, beſides theſe Preſidents, that where a danger to all, and receiving of benefit by all, all be equally charged.

My Lords, To illuſtrate by further reaſons, that though the Inland Counties and Maritime Counties be charged, I find that the Ports by the Charter of *E.* 1. were to find 57 Ships. I find that when the neceſſity of the ſervice did require it, then all their Ships were ſeized into the Kings Service, I find likewiſe that when there hath been a diſability in the Port to perform the ſervice as now they are, for then the main part of the Trade was in the Port Towns, but now it is gone from thence and come to *London*, and few Ports have the Trade, but *London*, *Newcaſtle*, *Briſtol*, *Hull*; and ſhall it not now be required by the Inland Counties ſince a diſability in the Ports, *Fra.* 21 *E.* 1. *m.* 23. I find there that *Plimouth* and ſome of the Port Towns did bear more than *London*; for *Plimouth* found four Ships, *Dartmouth* ſix, *Briſtol* four, *Newcaſtle* three, *Norwich* and *Yarmouth* four, *London* two, *Hartipool* two, *Sandwich* two, *Dover* two, *Rye* two, *Shoram* and *Arrundel* and other places found but one; it appeareth, *Alm.* 13. *E.* 3. *m.* 13. *dorſ.* that *Yarmouth* furniſhed at their own charges four Ships, *Kingſton* two, *Boſton* two, *Lynn* two, *Harwich* two, *Ipſwich* two. My Lords, Are theſe Ports able to furniſh the King with ſo many Ships in theſe days to do theſe ſervices: the wealth of one Portſman in thoſe days was worth the whole Town as it is now, admit the Maritime Town were bound unto it, yet of a failing of the ability that they cannot do it, ſhall it not elſewhere be required, that is agreeable to the Rules of the Law; before Commiſſions for Sewers where particular men are bound to defend the Sea, yet before any Statute in Caſe that the man was not able, the ſervice was required from the County, for by it they might have either gain or loſs, this appeareth by the Rule of the Common Law before the Statute Regiſter 123 *quod diſtringat omnes*, &c. when one man was to maintain the Bank of the Sea, if not able, the reſt that have benefit by it were to be diſtrained for it, 5 *Rep. fol.* 99. 10 *Rep.* 140, 141. Caſe of the Iſle of *Ely*, agreeable that all men who have *ſalvationem & damnum* ſhall contribute.

To this purpoſe are thoſe two Records remembred by Mr. *Solicitor*, *Pl.* 7. *H.* 4. *No.* 18. that where there was a Subſidie granted to the King for the defence of the Realm, was aſſigned to certain Merchants, yet with a *ſalvo* unleſs a Royal Power come, *fr.* 6. *R.* 2. *m.* 8. certain Merchants had the cuſtody of the Sea, except *Regal. poteſtatem*, ſo the concluſion is, if an ordinary defence there may be no cauſe to go into the Inland Counties; but if a Royal Power or extraordinary danger, though not eminent, the King may require an extraordinary Contribution *per totam Angl'*; but this hath been objected

againſt

againſt, and ſome Records have been vouched; that if (ſay they) we will ſhew you many Preſidents, wherein the *Navale Subſidium* hath been required from Inland-Towns, and they have been diſcharged thereof, as *Pat.* 2. *R.* 2. *pars* 2. *M.* 42. *Dor.* the Town of *Beverley* Petition, becauſe they were to contribute, being an In-land Town, towards the finding of a Ship for the Town of *Hull*, and was diſcharged thereof. This Truth, but not the whole Truth; for the Town of *Beverly* was diſcharged by reaſon of a Charter of Exemption granted unto them *in honorem Sti. Johannis Beverley*; the Kings Confeſſor upon that Charter; were diſcharged: They have objected likewiſe for the Town of *Bodman*: They were diſcharged *a Cuſtod' Maris* an In-land Town in *Cornwel*; for this, *Cl.* 13 *E.* 3. *pars* 2. *M.* 14. was vouched for it, that the Town was diſcharged of this Contribution; for Anſwer unto that it will appear, that one *Truſſel* was then Admiral of the Fleet, and was by his Commiſſion to be furniſhed from the Ports at their own Charges for three Months. 13 *Caroli.*

My Lords, this appeareth *Cl.* 13 *E.* 3. *pars* 1. *M.* 35. and ſo that Town and In-land was to be diſcharged.

My Lords, likewiſe there were other diſcharges upon that Reaſon, as *Norwich* was diſcharged for finding of Men, for making of Ships, becauſe the Admirals Commiſſion did not warrant it, *Sco.* 10 *E.* 3. *M.* 15. for it only extended to the Ports; but yet *Norwich* was charged to find Ships, *Cl.* 13 *E.* 3. *pars* 1. *m.* 14. So *Colcheſter* was diſcharged from finding of a Ship; but becauſe they were not within the words of the VVrit, as appeareth *Cl.* 13 *E.* 3. *pars* 1. *m.* So as to tell your Lordſhips a Story of a great number of Land-Towns diſcharged *de Cuſtod' Marit'*, and not to give your Lordſhips the reaſon, it's nothing to the purpoſe.

So, my Lords, having verified this fifth Point by theſe Preſidents, and juſtified by theſe Reaſons, and anſwered theſe Objections, I ſhall now come unto the ſixth matter upon this Record.

And that is, that though no cauſe be declared in the VVrit, no danger manifeſt, nor againſt what Enemy; that yet the Kings VVrit hath commanded Shipping both for Defence of Sea and Land; and, in the Kings VViſdom, the danger hath been reſerved in His Breaſt, and not communicated to His People by His VVrits.

1. I find that ancient Preſidents have been ſo, that it hath been reſerved unto the King Himſelf, and thoſe whom He did depute; that appears *Cl.* 14. *Jo. m.* 2. The King directed His VVrits to *Harbert*, with a *Mandamus* to make ready all Ships for our Service when we ſhall command; not a word of a Cauſe declared, or an Enemy proclaimed; ſame Roll *m.* 6. The King by VVrit directed unto other Parts, cauſeth all Ships that could carry ſix Horſes or more to be ſent unto *Portſmouth*; and the like VVrits were directed unto other Parts, 1 *Pat.* 15. *Jo. m.* 4. The King appointed a Guardian upon the Sea-Coaſts, and commandeth all Men that they ſhould be *Intendentes*, and other VVrits in the ſame Roll directed into many Counties with a *Mandamus*, 17 *Jo. Cl. m.* 7. *Do.* VVrits for the taking of Ships, and bringing them into *Thames* mouth, without ſhewing any cauſe. All this was done in the time of King *John*.

In the time of *H.* 3. *Pat.* 13. *H.* 3. *m.* 5. a Writ commanding the Sheriffs of *Kent* and *Suſſex* to arreſt all Ships in thoſe Counties to

An. 1637. be at *Portſmouth* to be ready to go in that Service we ſhall command: And it appeareth in the ſame Roll, that theſe Ships were able but to bear ſix Horſes; ſo in the *Cl. Roll* 14 *E.* 3. *m.* 13. To Our Bailiffs of *Portſmouth*, and keeper of Our Navy, to make ready one good Ship, and be ready to go in the Service of the ſame King, whither, and where He ſhall command it, *Cl.* 23 *E.* 1. *m.* 5. *Do.* The King declares, That He will have the Sea-Coaſts in *Eſſex* guarded againſt Enemies; and there commandeth them to be obedient to ſuch a one who had the Cuſtody, *Pat.* 23 *E.* 1, *m.* 2. The King writeth unto all Arch-Biſhops, Biſhops, Sheriffs, Knights, and others, to be aſſiſting unto who had the Cuſtody of the Sea.

10 *E.* 3. *m.* 37. The King commandeth all Ships to be arreſted, and Men and Mariners to be ſent unto the Admiral of the *Fleet*, *ad proficiſcend'*, &c. ſame Roll, *m.* 5. *Do.* A matter fit for the Counſel, and not for the People to know; ſame Roll 2c. that ſhould do, *prout vobis*, &c. The King to give no Account to His Subjects of thoſe things, 24 *E.* 1. *m.* 19. The King having commanded *O. S.* to take up 100 Ships fit for His Service, commandeth the Sheriff of *Northumberland* and others to be aſſiſting; ſame Roll. *m.* 17. Command to the ſame effect for all Ships that ſhould be taken between *Lynne* and *Barwick*; it was likewiſe in the time of *E.* 2, 9 *E.* 2. *Pat. pars* 2. 26 Ships taken up at the Charge of the Inhabitants to defend the Sea againſt Malefactors, *Cl.* 12 *E.* 3. *m.* 11. *Do.* a VVrit directed to the Major and Sheriff of *Sandwich*, to make ready all Ships within their Ports of 40 Tun *Ha.* &c. that they be ready within three days warning to go, as we ſhall more fully declare, the Service that was to be done; ſo it appeareth by other VVrits to other Towns, in the ſame Roll, 17 *E.* 2. *m.* 11. *Do. Pat.* 14 *H.* 6. *pars* 1. *m.* 14. *Rex pro quibuſdam arduis Cauſis*, &c. doth aſſign *John Hexam* to take up all Barges of 10 Men and upwards; ſo in all theſe times of King *John*, *H.* 3. *E.* 1. *E.* 2. *E.* 3. and *H.* 6. Writs have gone out generally, that the Service hath been concealed, and for inſtruction referred unto the Council, ſometimes to the Guardian of the Fleet.

It ſtandeth with reaſon, for reſolutions of War are not to be communicated; His Majeſty hath a ſeparated Council of VVar from the Body of the Privy-Council.

Now, my Lords, for the Objection that hath been made againſt the firſt VVrit 4. *Aug.* 11 *Car.* that is, the King hath not declared cauſe for the iſſuing of thoſe VVrits; the King hath not communicated it to *J. D.* and *J. M.* what the imployments muſt be; he muſt ſatisfie the Counſel at Bar, which he ought not to communicate to His Privy-Council, but is reſerved for the Council of VVar: This is a VVrit to command obedience from His Subjects, and upon ſuch Reaſons as may ſatisfie any reaſonable Man; and if fewer Reaſons, it had been the better agreeable to all former VVrits: For the next matter out of the Preſidents, which is, that during the times of Parliament, that theſe VVrits have iſſued, I have made that good upon my former Head.

The laſt thing I obſerved upon the Preſidents is, that there was no cauſe, nor Particular in this VVrit of 4. but was warranted by many Preſidents; and in this the King doth *jubere per Legem.*

First,

13 *Caroli.*

Firſt, for the direction, as in the VVrit, ſometimes upon one, or *Probus Hominibus* of ſuch a County, ſometimes the direction to Commiſſioners, ſometimes one way, ſometimes another way; and of this of the Preſidents themſelves, when your Lordſhips come to ſee them, I ſhall ſpeak, they would have the King to deſcend ſo low as to give them a Reaſon why he did it; ſome Reaſons are expreſſed in the VVrit, as, *Quia periculum eminens, quia pro defenſione Regni, Tuitione Maris, ſecuritate Subditorum, ſalva conductione Navium,* &c.

My Lords, All theſe are expreſſed in the Records, 9 *E.* 3. *M.* 12. *Sco.* 10 *E.* 3. *M.* 20. *Malm.* 12 *E.* 3. *M.* 1. 12. *Malm.* 13 *E.* 3. *M.* 13. I find in theſe Writs the ſame matter, power of Aſſeſſment, ſame Services by diſtreſs, and by Impriſonment; nay, ſeizure of Lands and Tenements; Goods and Chattels that are expreſſed in the former Writ; and that it was of the charge of the County, both Inland and Maritime: This appeareth *Rot. Sco.* 8 *E.* 3. *M.* 9. 4. *de Navigio providendo pro Cuſtodia Maris*; many of theſe, *Sco.* 10 *E.* 3. That the VVages of the Men that went into the Ships, and guarded the Coaſts, were at the Charge of the County; this appeareth 10 *E.* 3. *M.* 2. *Do.* 60. Men appointed and ſent to *Portſmouth*, and they refuſed to go without VVages; but a Command came from the King, and commanded the Counties to pay them VVages, 10 *E.* 3. *M.* 21. *Do.* and His Predeceſſors not bound to bear any Charge, though *pro defenſione*, *Alm.* 12 *E.* 3. *pars* 1. Thoſe of *Lynne*, who refuſed to contribute towards the Charge, were aſſeſſed by Commiſſioners, *juxta quantitatem*; and were compelled to contribute; ſo in the Cloſe Roll, 12 *E.* 3. *M.* 8. the like *pro Cuſtod' Marit'*. I might be infinite in theſe Particulars; but I will not tire your Lordſhips. Here they have made ſome Objections, though to anſwer the main Objection I am not yet come.

Obj. They ſay, this Power of aſſeſſing the People for Sums uncertain, theſe ought not to be, no more than Eſcuage uncertain, and muſt be aſſeſſed in Parliament; and this Aſſeſſment for Defence ought not to be by Commiſſion, not for the Kings VVrit.

Firſt, for the Authority, which is *Littleton*, he ſaith *fo.* 20. *Que communment dit*q; *Eſcuage ſerra aſſeſſe per Parliament.* I do not find by the Regiſter where theſe VVrits are, neither do I find them provided upon any Act of Parliament; but what if it be by Parliament, a Service that is to be done by the Tenant to his Lord, what if this be ſo, that it muſt be aſſeſſed in Parliament? your Lordſhips know, that the Tenant muſt do according to his original Duty of them he holds: And if this be ſo, that the Lords ſhall not aſſeſs them in Parliament, is that an Argument from a Tenant to a Lord to this Caſe? This is a Service commanded not by Tenure, but by a King from His Subjects; this is ſuitable to the reaſon of Law in other Caſes for theſe ancient ties which the King doth require for the making of His eldeſt Son a Knight, or *pur file marrier*: Are theſe certain at the Common Law? Muſt there be an Act of Parliament to aſſeſs thoſe Aids? the Books are otherwiſe; but the King at the Common Law might require an Aid uncertain, and might Seſs it as He pleaſeth. *Glanvil lib.* 9. *Cap.* 8. *Brit. fo.* 57. *Cap.* 27. *Bract. lib.* 4. *Cap.* 16. ſo as at the Common Law they were

An. 1637. were uncertain, 11 *Rep.* 68. *D.* It is ſaid there, the Stat. of *Weſtm.* 1. *Cap.* 15. which putteth reaſonable Aid in certain, doth not bind the King a *Fortiori*; we muſt not tie Him to a certainty, for the Defence of the Realm. No Man can tell what the Preparation muſt be, or the Charge thereof; if they can ſhew an Act of Parliament that limits the King for Defence of the Realm, they can ſay ſomething.

But they ſay the Sheriff is no Officer, nor ſworn to execute the Writs: This is as wide as the other; for, my Lords, the Sheriff is ſworn to execute all Writs that ſhall be delivered to him for the Kings Service; and ſurely this Writ, if it come unto him, he muſt at his peril execute it.

Firſt, the direction of thoſe Writs have been many times as well to the Sheriff, as to the Commiſſioners, *Sco.* 10 *E.* 3. *M.* 13. *Cl.* 15. *E.* 3. *M.* 17. The King commanded the Sheriffs of ſeveral Counties to furniſh Men with Arms, Victuals, and neceſſary Proviſion both for Sea and Land, 23 *E.* 1. *M.* 5. *Do.* 24 *E.* 1. *Rot.* 79. *ex parte Regis.* The Lands of the Sheriffs and other Officers were extended becauſe of their negligence in doing of their duty in theſe Writs, 25 *E.* 1. *ex parte Regis.* A Commiſſion went out to enquire of the execution of the Officers in the duty of their Places.

Beſides theſe Writs at the Common Law, he is ſeconded by the Authority of the Common Law, *Regiſter* 122, or 127.

That Writs went generally unto the Sheriffs, for that in all Times and Ages it hath ever been in theſe Caſes, where no certainty left to the diſcretion of the Sheriff and Commiſſioners.

My Lords, For the manner of levying by diſtrictions, and by Impriſonment of thoſe that do refuſe, it hath been ſo in all the Preſidents that have been vouched both by diſtreſs and impriſonment; for the Diſtreſs, if the King make a Corporation, and give them Power to make Ordinances for the Common-Wealth, and they make an Order, that they ſhall not pay the ſame, they ſhall be diſtrained. And is not this adjudged a good Ordinance, 5 *Rep.* 64. *Clarks* Caſe, *T.* 7 *H.* 7. *Rot.* 3. There is a Benevolence granted to *E.* 4. for his Voyage into *France*; one *T. R.* did deny payment, and he was diſtrained for his proportion.

They except to the penalty of the Writ, the penalty of former Writs have gone higher *inter Co'ia* in the *Exchequer*. There was a *Mandamus* to aſſeſs thoſe imployed in the proviſion for Shipping; and this *Mandamus* was, *Sicut nos & honorem & ſalvationem Regni diligitis.* In that Roll that is ſo often remembred, *Sco.* 10 *E.* 3. *M.* 1. *Do. quod*, &c. Their Lands, Goods and Chattels remain ſeiſed into our Hands, and *M.* 2. under pain of forfeiture of Life, 11 *E.* 3. *M.* 2. To caſt thoſe into Priſon that did refuſe, *Cl.* 12 *E.* 3. *M.* 18. *Do.* Writs directed unto *Henry Huſſey* and others, to puniſh thoſe who refuſed to contribute, and to impriſon them, and ſeize their Lands and Goods into the Kings Hands, *Cl.* 13 *E.* 3. *pars* 1. *M.* 36. *Do.* To ſeize into their Hands the Lands and Tenements of the Refuſals, *Rot. Fran.* 21 *E.* 3. *pars* 1. *M.* 11. The King commandeth Ships under pain of Life and all his Eſtate to forfeit, *Fra.* 10 *R.* 2. *M.* 23. *ſuper* and to impriſon thoſe that contrary under forfeiture

13 Caroli.

ture of all they had; ſo as your Lordſhips ſee that Mr. *Holborne* was very far miſtaken.

My Lords, In the next place they have laid hold of the diſtance of time, they ſay there was ſeven Months between the *Teſt* of the Writ, and time of Randezvous, that the King might have called a Parliament, and there might have been an Aid granted, and the Service performed in a Parliamentary way; but they may remember the 40 days between the Return and *Teſt* of the VVrit, the time ſpent in preſenting a Speaker, the ſolemnity uſed before they begin, their grand Committees, their reading of a Bill thrice, their debate about it, the paſſing of both Houſes before it be granted. After all this be done, and the Parliament ended, a time for the levying of the Money muſt be had; and when it is levyed, time for the Return of it; when it is returned, time for the expending of the Money. And the Preparations will go ſlowly on till the Monies be returned, 48 *H.* 3. *M.* 4. *Do.* There was a Command for guarding the Sea-Coaſts, *Cl.* 23 *E.* 1. *M.* 5. *Do.*

That the Ports of *Yarmouth* commanded to find Ships for a certain time, *Sco.* 11, 12. 13 *E.* 3. they are put down in that Roll 8. That there was a Command *Navale ſubſidium* for three or four Months.

So as, my Lords, both for the time of preparation, and for the time of the continuance it hath ever been reſerved unto the wiſdom of the King.

My Lords, for the *Spaniſh* Invaſion, that hath been ſo late in our memory, I find by the Books that are kept in the Council-Chamber, that the Preparations were in *October Anno* 87. againſt the coming of the *Spaniſh* Fleet in 88. which did not ſet forth till *June*. I find no Parliament called that year: And by the Letters and Orders from the Council-Board, thoſe Ships and Defence that were made, was *ad ſumpt'* of the Subject: So as, my Lords, by this that hath been ſaid it doth appear unto your Lordſhips, that there was not any Clauſe in this Writ, either for the Direction, Motives, Mandates and Penalties; but are warranted by former Preſidents, that I have collected and reduced unto theſe ſeveral Heads. I ſhall now remember unto your Lordſhips divers things; and in the firſt place obſerve, that *William* 1. came not to abrogate any former Law, but was ſworn to obſerve *Antiquas Leges Anglicanas*: That appeareth in *Lambert* 125. So every Man, by this Law, which was but a confirmation, muſt provide *pro viribus & facultatibus*.

I find in the Grant, that *William* the firſt made unto his Abby of *B.* of his own Foundation, a Charter to be free from *Danegeltis & omnibus auxilijs*: If they had not been freed, they had been ſubject, I find *Pat.* 7. *Jo. M.* 3. The King authorized *Walter Scot*, and others, that *omnes Naves*, &c. which could carry ſix Horſes, which they ſhould find, to arreſt and command all to aſſiſt, as they love us and our Peace in our Realm, 14 *Jo. M.* 6. As your Lordſhips have heard all the Ships were arreſted that could carry ſix Horſes, and to be at *Portſmouth M.* 2. all the Ships of the Ports were to go in this Service, without expreſſing for what Particulars, *Cl.* 12. *Jo.* 7. *Do.* commandeth all the Ships to be brought to the *Thames* mouth: So here was not a laying down the continuance of it.

So

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So *H.* 3. time, *Cl.* 14 *H.* 3. *m.* 12. *Do.* All Ships taken that could carry 16 Horſes, *Cl.* 15 *H.* 3. *M.* 17. *Do.* Command for the furniſhing of Armed Men with Victuals, and other Proviſion for 40 days; and there was the like Command to the Sheriffs in ſeveral Counties, *Cl.* 26. *H.* 3. The King commandeth the Men of *Yarmouth* to have their Ships ready with Men and Arms: The ſame Roll to find 10 Ships to go to *Piccardy*, *Pat.* 48. *H.* 3. *M.* 3. *Do.* Writs to the ſeveral Port-Towns, that no Ships ſhould go beyond Sea, but all to ſtay at home. Thoſe who returned from guarding the Sea-Coaſts were puniſhed by Impriſonment, ſeizure of Goods and Chattels, *M.* 4. ſame Roll *Do.* Proviſion to be made till further uſe be had; ſo it was not confined unto time, but unto occaſion, as need ſhould require. And there be divers others in the time of *H.* 3. upon other occaſions, which I have remembred in that time of *E.* 1. All the Port-Towns were appointed by the King and His Council, how many Ships every one ſhould ſet forth, *Vaſc.* 22 *E.* 1. *M.* 11. *Do. N.* 6 The King of *England* in that Writ doth ſtile Himſelf *Superior Dominus Regni Scotiæ*, &c. and ſendeth His Writs to the King of *Scotland*, to let him know the King of *France* had taken part of *Gaſcoigne*, an Inheritance of the Crown of *England*, that he ſhould, *in Fide & Homagio*, be at *London* with Horſe and Arms, *&c.* This Writ is very obſervable, the King of *England* is *Superior Dominus*, a part of *Gaſcoigne* then loſt: The King of *Scotland* was required by this Writ, as well as requeſted, to give him Aid, for the Recovery of thoſe Grounds taken from him in *Gaſcoigne*.

My Lords, This Power is not confined only to *England*, but it reacheth (as great Lord) into *Scotland*, alſo into *Ireland*, *Vaſc.* 22 *E.* 1. *N.* 5. *Dor.* The King by His Writs commandeth divers Earls and others of *England* and *Ireland* to do the like, to ſend Men to *London* with Horſe and Arms; the ſame *Rot. Vaſc. M.* 13. *Dor.* All that claim to be of the liberty of the Ports, were commanded *Pat.* 23 *E.* 1. *M.* 1. 5. 7. All Ships of 40 Tun were to be furniſhed and provided for the Kings Service, *Cl.* 23 *E.* 1. *M.* 5. every Man is compelled to contribute; ſame Roll *M.* 40. that did not inhabit in the Maritime Towns; yet if they had Land there, they muſt contribute; reſident or not reſident within or without their liberty, all muſt contribute.

My Lords, in that VVrit which is *Cl.* 23 *E.* 1. *M.* 5. *Dor.* I will obſerve theſe things: 1. A Command unto all Biſhops, Abbots, Lords Spiritual and Temporal, *Quod ſint intendentes reſpondentes ad Cuſtodiam Maris.* 2. In contingent Cauſes. Thirdly, VVrit ſaith, *Quod omnes ad Arma*, &c. *Secundum Statum*, &c. *Ad transferendum nobis.* And poſſeſſion of Goods and Lands to be taken for the Cuſtody of the Sea, as in times they were accuſtomed; ſo it is to be done in this manner, as in times paſt.

Fifth place, the VVrit was directed to ſeveral Sheriffs *per Corpora, Bona & Terras* to diſtrain. Next 24 *E.* 1. *M.* 15. the King commanded the Arch-Biſhops, Biſhops, Barons, all the Commonalty, to defend the Maritime Parts, *Cl.* 24 *E.* 1. *M.* 19. *pro Cuſtodia Marit'.* There was another of *Simon* which I remembred before. 24 *E.* 1. *Rot.* 76. Another of the like *Rem' Regis. Cl.* 15 *E.* 1. *M.* 26. *Do.* The King moderateth the Expences of the Country, when

13 *Caroli.*

when the danger ceaſeth, *Cl.* 25 *E.* 1. *m.* 12. The King commandeth the Sheriffs in ſeveral Counties, and others, to bring all the Ships to be ready for our Service whenſoever we command, *m.* 20. ſame Roll; the like command *de Cuſtod' Marit'*, *Pat.* 31 *E.* 1. *m.* 20. Power given to *Thomas de B.* to raiſe Forces in *Cumberland* to reſiſt the *Scots*, and thoſe that did refuſe to ſeize their Goods: In the time of *E* 2. *Cl.* 2. *E.* 3. *m.* 21. the King commanded divers Towns to ſet forth Ships againſt the *Scots*; and afterwards by ſpecial Writ ſome of theſe were diſcharged, *Rot. Pat.* 9. *E.* 2. *pars* 2. *m.* 6. *Pat.* 16. *E.* 2. *m.* 11. A Writ directed to Sir *Thomas W.* and others, to array all between ſixteen and ſixty, or to take their Goods and Lands if they did refuſe, *Pars* 1. *m.* 7. of the ſame Roll, 16 *E.* 2. *Cl.* 20. *E.* 2. *m.*

The King doth there declare, That thoſe who ſtay at home ought to contribute to ſet forth Ships, and for the Wages of the Men imployed, *Cl.* 20. *E.* 2. *m.* 60. Writs directed to the Scholars of *Oxford*; they were not exempted, but commanded ro keep *South-gate* ſafely, *Vaſc.* 18 *E.* 2. *m.* 18. The King writeth to the Arch-Biſhop, and others, commanding them to have Horſes and Men in readineſs as often as need ſhall require: For the time of *E.* 3. *Cl.* 2. *E.* 3. *m.* 13. *m.* 22. *Do.* the King writeth to *Southampton*, and to other Towns, for their Shipping, 3 *E.* 3. *Pat. pars* 2. *m.* 6. The King commandeth the Sheriff of *Cornwal* to diſtrain Knights, and others; that abide in their Lands upon Maritime Parts, and impriſon Thoſe years of 10, 11, 12, *&* 13 *E.* 3. have been remembred 21 *E.* 3. The King, concerning the Defence of the Sea and Sea-Coaſts, gave ſpecial Rules to be obſerved, both for the Number of the Ships, for the Quality of the Perſons, and for the Proportion of their Wages, as appeareth *Pat.* 19. *E.* 3. *pars.* 1. *m.* 26. 21 *E.* 3. *pars* 1. *m.* 26. *&* 17. where there was ſpecial order taken for the guarding of the Sea and Sea-Coaſts at the Charge of the Inhabitants, *Franc.* 21 *E.* 3. *pars* 1. *m.* 11. Command to the Sheriff of *London* to arreſt all Ships in *London* to be ſent to *Callice* to reſiſt the Enemies againſt us: Then about to come, *Franc.* 25 *E.* 3. *m.* 9. *N.* 26. The King reciteth, That *France* made a Preparation to invade the Realm, and gave a Power to ſome to raiſe Forces, and commanded the Sheriffs to raiſe *Poſſe Comitatus* to aſſiſt the Commiſſioners, 26 *E.* 3. *Pat. pars* 1. *m.* 7. The King, by His Writs to ſeveral Counties, commanded, That all Men between 16 and 100, to be in readineſs to reſiſt the *Scots*.

Franc. 25 *E.* 1. *N.* 31. Command unto all Officers and Miniſters to aſſiſt *Andrew de Gulpho* in the raiſing of Forces for Shipping, and to bring them to *Portſmouth*; ſo as in that Roll likewiſe your Lordſhips ſee that the In-lands were commanded for Shipping, *Fra.* 28 *E.* 3. *m.* 6. The King appointed *R. C.* and *Ro. A.* to arreſt all Ships of 20 Tun and upwards, between ſuch a diſtance, and to bring to *Southampton*, *Scoc.* 29 *E.* 3. *m.* 13. That ſeveral VVrits were directed to the Biſhop of *Durham*, *Carliſle*, and others, for the arraying of Men, *Fran.* 40 *E.* 3. *m.* 37. The King ſends forth divers VVrits, commanding, *Quod Domini Co.* with all their Forces, ſhould aſſiſt to the ſafe-keeping of the Sea-Coaſts, to reſiſt the malice of the Enemies, *Fra.* 50 *E.* 3. *m.* 45. *Dor.* Command to make Proclamation, That all, having Lands upon the Sea-Coaſts, ſhould repair thither

An. 1637. with their Families; ſo as in all Ages and all Times Writs have iſſued both for Defence of the Sea and Land.

In the time of *R.* 2. *Parl.* 6 *R.* 2. *N.* 42. That was objected as a Record againſt the King, but maketh clearly for Him, *que dit, que le Roy Perſon aſſemblies en Parliament eſt deſire de viver des Revenues del' Corone, car Eſcheates, Marriages, & Forfeitures, ſont pur le' Defence noſtre Roy Reſp. le Roy volet de faire en ceo Caſe; come per le adviſe des Seigniors,* &c.

Your Lordſhips ſee they deſire of the King to live of His Revenues; that the Profits of Wards and Marriages of the Realm might be kept for the Defence of the Realm. The King giveth His Anſwer, That He will do and obey in this Caſe, by the Advice of the Lords of this Realm, as ſhall be moſt for His Honour and Profit; ſo no reaſon to make any inforcement out of this Record.

The Profits of Wards, *&c.* goes for Defence, becauſe the King giveth no abſolute denial unto it, ſaying, That the King will do as He ſhall be adviſed by His Lords.

Fra. 7 *R.* 2. *m.* 18. That the Lords beyond the Seas be Arrayed and Armed according to their Eſtate and Family, *Pat.* 8 *R.* 2. *pars* 2. *m.* 15. A Command, that all between 16 and 60 be in readineſs, *Fr.* 10 *R.* 2. *m* 23. Arrays throughout all *England*; and ſo in the time of *H.* 4. *Parlement.* 5 *H.* 4. *N.* 24. for the Arraying of all Men throughout *England*, and thoſe that were impotent, and could not go to contribute unto it, 3 *H.* 5. *m.* 36. *Do. Pat.* 13 *H.* 6. *m.* 10. General Commiſſions for the arreſt of Ships, without declaring the Cauſe, *Pat.* 14 *H.* 6. aſſigned *Jo. de N.* to arreſt all Ships in the Port of *Southampton*, to do Service as the King ſhould command: There was no cauſe declared. *Pat.* 28. *H.* 6. *m.* 2. 13. Commiſſions to array, and thoſe arrayed to keep in array with diligent Watches; and the like Writs awarded into other Counties, 1 *H.* 7. 1. *pars.* The King writeth to Sir *Fitzhughe* to array Archers and Horſemen; ſo that it appeareth by thoſe Preſidents in all Ages, that thoſe Defences have been made by Sea and Land, not confined to Port-Towns, and Maritime Places, but *per totam Angliam.*

Next place I ſhall give a particular Anſwer to ſuch Objections as have been made (as have not faln in my ways) unto the Acts of Parliament, Reaſons, Records, and ſome Book-Caſes.

The End of Mr. Attorney-Generals ſecond day's Argument.

Mr.

13 *Caroli.*

Mr. Attorney General his third days Argument.

May it pleaſe your Lordſhips,

THe Matters I did propoſe to inſiſt upon this day, was the anſwering of the Objections, I ſhall uſe no Preamble, no Repetition to induce what I have to ſay: But in the anſwering of the Objections I ſhall firſt give anſwer to the ſeveral Acts of Parliament inſiſted upon, then unto the ſeveral Records and Reaſons that have been urged; and in the laſt place I ſhall anſwer the Exceptions that have been taken unto the Writ 4 *Auguſti*, *Mittimus*, and form of Proceedings.

The firſt Act that they have inſiſted upon, is that of *William* 1. Call it what you will, an Act or a Charter: The words of it are verbatim in *Matthew Paris*. *Volumus & concedimus quod omnes liberi homines ſint quieti ab omni Pallagio*, &c. Surely this Act of Parliament or Charter, it doth no way trench upon this Royal Power: For, as in the beginning of my Argument I opened unto your Lordſhips, that this Power was inherent in the Kings of *England* before the Conqueſt; here is only a Conceſſion, that they ſhall be free *ab omni injuſta exactione*; now this is no unjuſt exaction, for it is of common Right; and then the other part of this Law doth explain it, for it ſaith, That *ſumus fratres Conjurati*, &c. ſo far as the Defence of the Realm: By the ſame Law they would urge to take away this Power, by the ſame Law it is reſerved.

Next place they inſiſted upon, was the Charter 10 *Jo.* or on *Magna Charta*, as they call it, which indeed is mentioned in *Matthew Paris*, and may be under the Great Seal: The words of that are thus. *Nullum ſcutagium vel auxilium, niſi per Commune Concilium militem faciend', & maritand' fil'*, &c. This Charter it is, as was acknowledged by themſelves, granted at *Runny-meade*, when the Banners were diſplayed, when there was War or Rebellion, between the Barons, Commonalty, and the King. It was not aſſented unto the King ſitting in Parliament; for Parliaments are not called with Arms, and in the Field: It was in truth an inforced Act from a diſtreſſed King; ſhall this bind the Crown? I ſhall remember the Acts of Parliament made 15 *E.* 3. and there only were things that were in Parliament enacted derogatory to the Crown, as this is, that no Peer ſhould be queſtioned but in Parliament, that no great Officer be removed but in Parliament, that no Clergy-man ſhall come before Temporal Judges; theſe were things that were much derogatory to the Prerogative of the King.

15 *E.* 3. That King the ſame year, when he was better adviſed, did make a Charter, which is in Print, for the re-calling of this prejudicial Act of Parliament ſtill in force.

It appeareth by the Parliament Rolls, and Printed Books, where the King declareth, it was drawn from Him with an unwilling mind, and was prejudicial to the Prerogative of His Crown; and therefore by that Charter it was repealed.

But, my Lords, this Charter 17 *Jo.* if this ſhould be in force, why hath there been no confirmation of it in ſo many Parliaments

An. 1637.

ſince? The Statutes of *Magna Charta*, 9 *H.* 3. hath been confirmed 31 times, why no confirmation of the Charter 17 *Jo.* and why have we not heard of it ſince that time? Reaſon for it, becauſe it trencheth too high on the Prerogative of the King and Crown. But take the words as they are; what be they? *Nullum ſcutagium niſi per Commune Concilium Regni noſtri.* If it were an Act, doth this extend to take away any thing of common Right unto the Crown? And that hath been the Expoſition of my Lords the Judges of Acts of Parliament, That Aids due of common Right are not taken away by general words of *Commune*, &c. And therefore theſe Aids due of common Right, as this is, are no way taken away; beſides, for the Statute of *Magna Charta*, it is made, 9 *H.* 3. *Cap.* 29. *Nullus liber homo capietur, aut impriſonetur, niſi per Legem*, &c.

The general words of this Act of Parliament doth no way impeach the Royal Power; for this Royal Power it is *Lex Terræ*; beſides in theſe Preſidents, 14 *H.* 3. 15 *H.* 3. 26 *H.* 3. 48 *H.* 3. and all the ſucceeding Kings remembred in all them, that theſe Writs went out to provide Shipping at the Charge of the Inhabitants: So ſurely, if they had been taken away by *Magna Charta*, the Writs after *Magna Charta* would not have uſed it.

Obj. But then there hath been objected the Statute *de Tallagio non concedendo*; if it be 25 *E.* 1. as it is printed, or 34 *E.* 1. or, as the Petition of Right doth recite it, *Temps E.* 1. Be it when they will; I ſay, under favour, there is nothing in that Act doth take away this Power: The words are thus. *Nullum Tallagium vel auxilium, ſine voluntate Epiſcoporum, Baronum, Burgenſium*, &c. Mr. Solicitor, in his Argument upon probable Grounds, did make queſtion, whether this was an Act of Parliament, yea or no?

1. In reſpect it was not inrolled among other Acts of that time.

2. Becauſe the Penning of it may rather ſeem to be an Abſtract.

3. Becauſe when the other Acts of thoſe times were ſent over to *E.* 1. to be Sealed and Confirmed, no ſuch Act was ſent over.

My Lords, I will not lay hold on this; but will admit with them, that as it is recited in the Petition of Right to be an Act of Parliament, ſo I will admit, (yet to wave nothing that hath been ſaid) but by way of Admittance I give this Anſwer.

Anſ. 1. That it taketh away no Aids that are due by the Aids of the Realm; yet the words are general, *Nullum ſcutagium vel auxilium, niſi aſſenſu Parliamenti*, &c. Here is not in this Act of Parliament ſo much as an exemption of an Aid to Knight the Kings Son, or to marry the Kings Daughter; Yet in this the Law is reſolved, that theſe Aids are not taken away. And ſo it is declared, 25 *E.* 1. *Ca.* 11. which doth reduce theſe Aids unto certainty, ſo as your general words of *Nullum auxilium* will not do it. If this be an Aid due by the Law of the Land, then I ſay this is not properly an Aid; but a Contribution of King and People for the Defence of the Realm: It is *ad proficiſcend' cum Navibus Noſtris*; then I ſay, that this Power is *inter Jura Summæ Majeſtatis*, one of the higheſt Prerogatives of the King, and ſhall never be taken away by the King,

12 *H.*

12 *H.* 7. Stat. *quia emptores terrarum* doth not extend unto the King to take away his Tenure; If you will have ſuch an high Prerogative taken away, you muſt ſhew it in the Acts of Parliament. Nay, my Lords, I ſay that in the time of *E.* 1. this Royal Power is expreſly reſerved by Act of Parliament unto the Crown, and therefore in after times never intended to be taken away. 13 *Caroli.*

(1.) I ſhall inforce it out of the Statute of 25 *E.* 1. *cap.* 5, 6. That doth recite that Aids and Taxes which have been given unto us before time towards our Wars and other Buſineſſes of our own grant and good will, howſoever they were made might turn to a Bondage, *&c.* We have granted that we ſhall not draw theſe Taxes into a Cuſtom, *&c.* and do grant that for no Buſineſs henceforth we ſhall take ſuch manner of Aids, but by a common conſent of the Realm, *&c.* ſaving the antient Aids due and accuſtomed. This Aid is not taken to be an Aid, for this was never given unto the Kings of *England*, but taken by Royal Power, the Statute of 25 —— ſpeaketh of ſuch Aids as have been given, and excepteth ſuch Aids as have been due and accuſtomed, and by the Preſidents ſhown it appeareth thoſe have been due and accuſtomed. It hath been deſired *fide & Ligeantia* and with a *Mandamus*, 2 *E.* 1. *cap.* 1. This Statute doth confirm the great Charter, and the Charter of the Forreſts. But in the end of it in the Parliament Roll, that notwithſtanding all theſe things before mentioned, both the King and His Council, and all they preſent at the making of this Ordinance, will intend the prerogative of His Crown be ſaved unto him.

A further Anſwer to the Statute *de Tallagio non concedendo*; the practice that hath been ſince the time of *E.* 1. in the time of *E.* 2. *E.* 3. *R.* 2. and the practice ſince doth ſhew plainly that it was never intended by the Statute to take away this Royal Power. But then a thing materially objected, if the Records had warranted what had been ſaid, and that was *Rot. Parl.* 29. *E.* 1. and there it was ſaid that though there be a ſaving 25 *E.* 1, 28 *E.* 1. yet here is no ſaving in this Act, ſo then Act of 29 *E.* 1. all was loſt.

My Lords, In this, I ſay, there is *nul tiel Record*, and therefore I ſhall deſire that this which they call an Act, 29 *E.* 1. I may attend your Lordſhips, which by the Record it doth appear that it is only a Record of the perambulation of the Forreſt, and no repealing of any former Law, neither is any thing enacted by that Law derogatory to the Crown.

Next Statute objected, 1 *E.* 3. *cap.* 5. words are, that no man ſhall be charged to arm himſelf otherwiſe than in the time of the Kings Progenitors, and that none be compelled to go out of his Shire, but where neceſſity requireth, and ſodain coming of ſtrange Enemies within the Realm. So this Statute is relative to what hath been formerly done, and what hath been formerly done appeareth by the Records of King *John*, *E.* 1. that the Subjects were to ſet forth Ships for their defence, at their own charge, then thoſe Writs went out in *E.* 3. time, as hath been ſhewed. And then this Statute alloweth in two caſes, one where neceſſity requireth, the other upon the ſodain coming of ſtrange Enemies, and this Writ requireth no other, but where neceſſity is in the Kings judgement.

Obj.

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Obj. Next Statute of 1 *E.* 3. *cap.* 7. was objected where men of Armes were conveyed into *Scotland* and *Gaſcoign* without wages; the King ſaith it ſhall be done ſo no more: the Statute mentioneth *Scotland* and *Gaſcoign*, foreign wars, and ſo foreign to this buſineſs; for though *Scotland* was ſubject to the dominion of *England*, yet it was adjudged a divided Kingdom. 8 *R.* 2. continual claim *Com.* 376. That a Fine ſhall be paid by a Stranger, becauſe he was in *Scotland* at the time of the Fine levied. *Bract.* 436. an Abjuration into *Scotland* is good, 6 *R.* 2. protection 46. that *Scotland* is out of the Realm. Therefore this Statute that ſpeaketh of *Gaſcoign* and *Scotland*, ſpeaketh of foreign Wars, not of Defence.

Next 10 *E.* 3. *cap.* 7. Men of Armes, Hoblers and Archers ſhall be at the Kings wages. This Statute likewiſe ſpeaketh of going out of *England*; but he that is upon defence of the Kings Seas, he is not out of *England*, for that 6 *R.* 2. protection 40. The ſending of Ships for the defence of the Coaſts is no going out of *England*.

Obj. Next Statute 15 *E.* 3. *cap.* 8. no man ſhall be conſtrained to find men of Armes, Hoblers or Archers, otherwiſe than thoſe who hold of ſuch ſervices without Common Conſent. My Lords, This Statute of 25. doth not take away any former Laws, in that Statute of 4 *H.* 4. *cap.* 13. theſe three former Statutes of 1 *E.* 3. 18 *E.* 3. 25 *E.* 3. are recited in the Statute of 4 *H.* 4. and enacted they ſhall be firmly holden and kept in all points. So if theſe Statutes muſt be kept firmly in all points, then the Statute of 25 *E.* 3. doth not repeal any of theſe: Now that of 1 *E.* 3. *cap.* 5. reſerveth a power unto the Crown, where neceſſity requireth, and when ſodain Enemies come. 26 *E.* 3. thoſe Ships were ſent forth, and commanded for the defence of the Realm at the charge of the Subjects, *Rot. Fran.* 26 *E.* 3. *m.* 4, 5. *Fran.* 28. *E.* 3. *m.* 6. ſo as clearly there is no part of this Power impeached by this Statute of 25.

Then they have objected Parliament Roll, 2 *R.* 2. *No.* 3. Earles and Barons and other Sages of the Realm declared the great miſchief by Sea and Land, and therefore declared they could not remedy this miſchief but by charging of the Commons, which cannot be done without Parliament.

This is no Act of Parliament, it is but a Parly or Diſcourſe and Communication between the Lords and Commons. It was in 2 *R.* 2. in the nonage of a young Prince, who did not aſſent, for there was no Royal aſſent unto it, ſo no proof in this Caſe.

Next Record 9 *R.* 2. *parl. no.* 10. there was a tenth and a half and fifteenth and half granted to the King, upon condition contained in the Schedule, which is that the King ſhould aſſent that the Officer ſhould be named in Parliament, and Servants be appointed for diſpence of the money.

If the King will accept the Subſidies and Aids upon condition, doth this take away the Royal Power? there is no more done in this than was in the Parliament 21 *Jo.* for there the Officers and Treaſurers were appointed by the Houſes of Parliament. But then further it doth appear, that this was granted *pro viagio Johannis Regis de Caſteel, &c.* ſo that it was not granted for the Cuſtody of the Sea, but for this voyage. Next place they inſiſted upon the

parl.

parl. 9 *H.* 4. *no.* 2. tenth and a half, and fifteenth and a half granted, with proteſtation that this ſhould not be retu[illegible]ned for example, this is nothing, no more than the other. A Parliament grants a Subſidie upon Condition it ſhould be thus and thus imployed. And the proteſtation can no way prejudice the Crown in this 7 *E.* 4. *parl. no.* 7. Objected there the Kings Speech, that is, there entred upon the Roll, that he will not charge His Subjects but in great and urgent occaſions. 13 *Caroli*

My Lords, This is nothing but a gratious Speech of the King unto His Subjects, that he would charge them but in ſuch Caſes as ſhould concern the defence of the Realm.

The Statute next objected, was 1 *R.* 2. *cap.* 20. that the Subjects from henceforth ſhall in no way be charged by any ſuch Exaction or Impoſition. My Lords, This is no Benevolence, but a Legal due.

Next they object the Statutes of Tonage and Poundage granted to the Crown for the defence of the Realm.

In Anſwer to that, there is no Act of Tonage and Poundage that is now in force; neither are any duties taken to the Crown upon any Act of Parliament.

Thoſe Statutes of Tonnage and Poundage which have been granted, they make for the Crown; and therefore if your Lordſhips look the Statute 1 *Eliz.* 1 *Jac.* it was given towards the Kings Charges for the defence of the Realm and ſafegard of the Sea: It was given towards the charge; It is not intended of any extraordinary defence, ſo, as my Lords, theſe Acts when they were in force did give this but towards the charges. It is ſo now, for this which is done, and thoſe Contributions levied are but towards his charges, and that will appear upon account, that His Majeſty for theſe three or four years hath expended more upon the Sea than any His Progenitors, beſides an acknowledgement in theſe Acts, that this defence could not be done without the intolerable expence of His Majeſty, theſe aids are of neceſſity, and not to be lacking at any time.

My Lords, In the next place they inſiſted upon the Petition of Right 3 *Caroli*, it was never intended that any power of the King by His Prerogative ſhould be either taken away or leſſened by it. I dare be bold to affirm, for I was of that Parliament, and was preſent at the debates, that there was never word ſpoken in that debate of taking away any power of the King for the defence of the Nation by Shipping. Beſides, it is declared, aſſented unto, and denied by none, that there was no intention by the Petition of Right to take away the Prerogative of the King. The King did grant no new thing, but did confirm the ancient and old liberties of the Subject.

My Lords, Theſe were the Acts of Parliament that have been objected and inſiſted upon on the other ſide.

Next place for an Anſwer to ſcandalous Objections. It hath been ſaid by Mr. *Hoborn*, that theſe Statutes of 25 *E.* 1. 28 *E.* 1. That all the time of making theſe Laws they were poſitive, no ſuch *ſalvo* in them of the Kings Prerogative.

The Acts before *H.* 4. was penned by the Kings Council, and thoſe clauſes of a *ſalvo* crept in by the Kings Council, theſe were

bold

An. 1637. bold and preſumptuous Aſſertions. The Acts of Parliament made in that time of *E.* 1. that there ſhould be any clauſes added by the Kings Council, that ſhould not be added to the Record.

I have here the Parliament Record, that theſe exceptions are recorded as fully as any part of the reſt of the Record; and thoſe Laws confirmed ſince, therefore to make any ſuch aſſertion againſt Records ought not to be done.

He may object the ſame againſt *Magna Charta*, which is for the liberty of the Subject.

Next place they have objected out of the Parliament Book, 33 *E.* 1. That upon a Petition made to the King to have reſtitution of money taken, that the King did ordain the Treaſurer ſhould give ſatisfaction, I ſhall deſire it may be read, and you ſhall ſee theſe moneys for which direction was given for ſatisfaction taken for the Kings uſe.

Parl. 33 *E.* 1. *fol.* 105. *dorſ. per Scrut. pro guerra, &c. Reſponſ. per Regem, Rex ordinavit per Conſilium quod ſatisfactionem faceret, tam citius poterit*, ſo this Record was for monies taken meerly for the Kings uſe, therefore reaſon ſatisfaction ſhould be given.

Next *Parl.* 8 *E.* 2. *m.* 8. Fryers of St. *John* of *Jeruſalem* did Petition to have ſatisfaction of 2354 *l.* taken by the King out of the Treaſury. Now becauſe this Record was vouched two days together, I deſire it may be read, and upon the reading it will appear to be upon another purpoſe, *Sur le Roy, &c.* but there was cauſe and reaſon why the King ſhould make ſatisfaction.

Next Record, *Pat.* 26 *E.* 1. *m.* 21. and that was highly magnified by them; that there were ſeveral Commiſſions went out to inquire of *Gravaminibus* of Woolls, and other particulars *de Cuſtod. Maris*, and in this it was affirmed as all the Kings Council took their Notes that theſe Clauſes were omitted out of the Writs that concern the forfeiture of Lands, Goods, Chattels, or Seiſures; This Commiſſion maketh nothing to this purpoſe, for like Commiſſions daily come; there are Taxes laid upon men heavier than they ought to be.

Commiſſions granted to inquire of Grievances in this kind, whereunto an Anſwer was, if any thing unjuſtly taken, ſhall be reſtored. But not a word to impeach this Royal Power. And, my Lords, for the penalties in the Writs, *Pat.* 31 *E.* 1. *m.* 20. Power to ſeize the Lands and Goods of the Refuſers, 20 *E.* 2. *m.* 10. under forfeiture of all his Goods, 10 *E.* 3. *m.* 5. *dorſ. Cl.* 12 *E.* 3. *m.* 18. *dorſ.* That the Penalties and Commands were as high in this Commiſſion as before.

Obj. Next Objection, that the Kings of *England* have always conſulted with the Parliament concerning the defence of the Realm, and that the Aides and Subſidies for defence have been granted by Parliament.

Anſw. This is no Argument to impeach this Royal Power; for if in time of War the King will conſent unto it, ſhall this take away his Royal Power, in the time of *E.* 3. and *R.* 2. did that take away the Royal Power, that he may not ordain Standards of the mony himſelf; he may by His Royal Power erect Courts of Juſtice,

ſtice, ſhall that take away this from his Power, becauſe the Court of Wards was erected by Act of Parliament. 13 *Caroli.*

Next Record Cited was *Rot. Alm.* 12 *E.* 3. *pars* 1. *m.* 22. That *E.* 3. was ſo penitent for what he had done, that he ſent to the Arch-Biſhop of *Canterbury* to pray for him, and that the People would forgive him for laying thoſe Taxes upon them, which his Wars compelled him unto, and he would never do the like.

Anſw. You ſhall ſee it was only to pray for him for his Voyage into foreign parts, and ſo cauſed the Record to be read, beginning thus, *De excuſando Regem verſus Populum*, ending *de Gravaminibus*, dated at *Barwick* upon *Twede*: your Lordſhips ſee by this Record nothing but a deſire of a Prayer. (1.) To pray for the King for his Voyage beyond Sea, the other concerning the Charges or Impoſitions. Surely this Contribution Commanded in the Shipping buſineſs, was none of thoſe Charges, Talliages or Impoſitions; This his deſire to the Arch-Biſhop was not only in the 12*th* year of his reign, but the like 25 *E.* 3. 26 *E.* 3. and the like, 50 *E.* 3. ſo as ſurely thoſe Prayers of the Arch-Biſhop was for other Cauſes, and not for this which was for the defence of the Realm. See the Record in the Tower.

Obj. Next Objection *Fra.* 7 *R.* 2. *m.* 13. That the King aſſigned Tunnage and Poundage to *Henry* Earl of *Northumberland* for guard of the Seas.

Anſw. My Lords, It doth appear by the very Record it ſelf, that this was only for ordinary defence, and not for an extraordinary defence.

Obj. Then they inſiſted upon the Parliament Roll of 13 *H.* 4 *n.* 43. the Office of admeaſuring Linnen Cloth, a half penny upon the Byer and Seller, and other Fees upon long Cloath, the Parliament of 13. *E.* 4. declares to be a void Office, and that accordingly Judgement was given 13 *H.* 4. out of this he would conclude, that therefore there ſhould be no new Office; that an Office granted with a Fee is void in Law.

Anſw. For Anſwer unto this, (1.) The reaſon why that was a void grant was this; it appeareth 4 *E.* 1. That the Office of all Woolls and Linnen Cloath was one intire Office. If the King will grant that to another man which was to trench on the former Office, a void Pattent. Therefore a ſtrange concluſion, that becauſe this Office was void, therefore no new Office to be granted, 22 *H.* 4. *fol.* 9. The Office of Surveying the Packing of all Cloath, good Office, 27 *H.* 4. *fol.* 28. the King granted to one to be Surveyor of his a good Office, *Fitz* ſaith, becauſe it had no Fee, therefore it was a void Office; and now at Bar it is ſaid becauſe it hath a Fee, It was a bad Office. If this reaſon may hold, all antient Offices may fall, 39 *H.* 6. Office to be Marſhal of the Kings Bench 12 *H.* 7, 15. to be Warden of the Fleet.

Nay, it taketh down all Offices that have been erected for the publick good, and upon ſuch cauſe as Offices *ſub pœna* in Chancery,

An. 1637. cery, Star-Chamber, *&c.* All thoſe within time of memory muſt be ſhaken by this.

Obj. Next place objected, that theſe Contributions that they are in ſubſtance Impoſitions, and that the King ſhall not impoſe upon the Subject by his Charter or his Writ, but it muſt be done by common conſent in Parliament; your Lordſhips have obſerved in all my Diſcourſe, that I have not inſiſted any way upon any Power of Impoſition, neither is it the queſtion in the buſineſs, for no mans property is Invaded, no ſeiſure of any mans Goods, unleſs they will incur for contempt, and by a wilfull contempt the Subject may loſe his property.

Therefore *Dyer fol.* 16. *&* 13 *Eliz. fol.* 296. If the King will command His Subject to come into the Realm, and he will not, he ſhall forfeit all his Goods for his contempt; or if he be attached to appear in the Courts of Juſtice, and not appear, he ſhall forfeit his Goods, 34 *H.* 6. 49. 9 *H.* 7, 6. If a man will wilfully contemn the Kings Command, by his Writ he may be diſtreyned; this incurreth not by an Invaſion of His Property, but in reſpect of his contempt, *Parl.* 5 *E.* 3. *m.* 24. Lord *Latymer* he was ſentenced for perſwading the King to lay Impoſitions. My Lords, I have looked upon the Record, and there the cauſe of the Sentence is declared, that he himſelf laid the Impoſitions, and did take upon him Royal Power, and therefore he was juſtly ſentenced; and for the Sentence of Doctor *Mannering*, nothing to this purpoſe. This Writ denieth not the property to be in the Subject, but ſaith the Subject hath the property, and therefore Commandeth the Sheriffs to diſtrain him if he will not pay.

And for the Commiſſion 2 *Car.* for the borrowing of mony for the Palatinate, this was for the recovery of the Palatinate, not for the defence of the Realm, and beſides called in by ſpecial Order.

Next place they objected and ſhewed divers Records, that the King hath paid the wages of divers Marriners and Soldiers, and I do agree it; Is that an Argument that he may not Command the Marrines to be ſent at the charge of the County to furniſh the Kings Ships, this is againſt the Records that I have remembred? So likewiſe they have cited 12 *E.* 3. *Ro.* 77. *ex parte Rem. Regis*, the King Commanded the Conſtable of His Caſtle of B. to build Ships, and the King to pay for them; ſo he doth at this day, he hath built the Sovereign of the Sea, and paid for it.

They have objected Doctor *Cowels* Book, which was called in, I wiſh they had read the Proclamation, three Cauſes expreſſed, (1.) Becauſe he had writ things derogatory to the Crown, (2.) for (3.) For ſpeaking irreverently of the Common-Law, juſt to light upon thoſemen who do not ſpare to wade into all the deep myſteries of Princes, who are Gods upon Earth.

For their Objection, that the King hath a Revenue belonging unto his Crown for the defraying of all ordinary and extraordinary Charges, and for the guard of the Sea.

As Tenures by Knights Service, Eſcuage, Wards, Marriage, antient Demeſn, *&c.* Pondage and Tunnage, ſervice of the Ports, and Profits of the Sea.

My Lords, it is not for us that are Lawyers to look into the ſecrets of the Kings Revenue, he hath high Officers, as Treaſurer

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rer and under Treaſurer that looketh into the ſecrets —— of his Eſtate, and they know well whether his ordinary or extraordinary Revenue do anſwer more than his Annual expence. The ſtory of *Acteon* might deter men from looking into the ſecrets of Princes.

For his Tenures, that Knight-ſervice tenure was originally inſtituted for the Service of *Scotland* and *Wales*, 19 *R.* 2. *Fitz. Guar.* 165. and old Tenures *fol.* 10. duties Called Tunnage and Poundage, when they were given it was meerly for the great charges of this great defence.

And beſides thoſe Acts of Tunnage and Poundage only concerned the ordinary defence, the ſending forth of the 75. Ships out of the five Ports, It was but for 15. days at their own Charges, and for your profit of the Sea of Sturgeon and Whales, a proper defence for a King. And for the ſervice of the Ports, you may remember by the Records ſhewn, they were Commanded *ultra debita*; but then they have granted one Caſe, and I think but one, that the King may ordain a Toll in a Fair or Market, or grant Pontage or the like, becauſe there is an *ad quod dampnum*, and therefore ſhall be an inquiry *ſi Patria gravetur*. The King may grant a Fair without an *ad quod dampnum*, if in his Judgement, *&c.*

Rot. Sco. 1 *E.* 3. *m.* 8. Writ directed to the Treaſurer, to pay for the Shipping at *Yarmouth*. My Lords, It doth appear particularly in the Records, that *I. S.* was Admiral, and going into *Scotland*, ſo the defence was for a foreign War.

It hath been mightily inſiſted upon, that here needeth no Command to furniſh Ships by the Kings Writs; every man by the inſtinct of nature will do it, where a neceſſity or Royal Power or Command needs; ſurely this Argument is made by the People, or to pleaſe the People; what will the Conſequence of it be, but the introducing of a Democratical Government when man ſhall be his own defender. The God of Hoſts choſe Captains and Leaders to go before his People, and commanded them but to give the People this liberty, that every man ſhall do as he pleaſe, and make a defence by inſtinct of nature, is a ſtrange Poſition —— But it hath been ſaid in theſe Caſes, it is better to ſuſtain a miſchief than an Inconvenience; by this Inconvenience every mans property is taken away from him as often as the King pleaſeth, and what proportion he pleaſeth: This though a Maxime in Law, yet it goeth unto particulars; but the loſs of a Kingdom is both Liberty and Eſtate; this is not to be reckoned amongſt the miſchiefs, for this miſchief deſtroyeth both Head and Members, therefore I do marvel to hear the Rule of Mr. *Hoborn* ſuffer a Miſchief, rather than an Inconvenience.

Next Objection, *Parl.* 2 *H.* 4. *no.* 22. *pur faire Barges*, This was the Petition of the Commons, that the Commiſſions granted to Cities, Burroughs and Towns for building of Barges ſhould be repealed; the Kings Anſwer for the preſent they ſhould be repealed, but for the future for caſe of neceſſity he would adviſe with the Lords: It doth not appear that theſe were granted for the building of any Ships for the defence of the Realm.

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Theſe are the Objections that have been made out of the Acts of Parliament, out of the Records and Reaſons they have inſiſted upon; now I come to the Exception and Objection againſt the Writs and Proceedings in this matter.

1. They ſay there was no ſufficient danger repreſented by the Writ 4. *Aug.* They ſay the ſupply by a *Mittimus* doth come too late, and that the words of the *Mittimus* are not a good affirmative, *quia ſalus, &c.* and it doth not appear there was any danger 4 *Aug.* 11. For this I have given it an Anſwer, that it was not neceſſary to repreſent the danger in the Writ. The King he hath ſecret intelligence, he hath his Eſpies abroad, His Ambaſſadors beyond Sea, he knoweth the danger we know not, nay, that which is not fit to be diſcovered; and thoſe dangers by preparation perhaps diverted another way. It's not fit by a publick Writ to reveal the dangers.

But, my Lords, For the ſatisfaction of His People he hath expreſſed ſufficient cauſe enough in the Writ. *Quia ſalus Regni periclitabatur, &c.* they ſay there was no danger repreſented at that time when the Writ went out; that is miſtaken, for the Writ of *Mittimus* doth recite 4 *Aug.* and ſaith *quod quidem predones Piratæ, &c.* Which ſheweth the danger was the cauſe of the iſſuing of thoſe Writs; then they except this ſame word *ſalus*; it is a Phyſical word ſignifieth health, and you muſt have no Metaphors in Writs: ſurely the Gramarians can tell that *ſalus* is taken *pro incolumitate*, as for health, for ſafety, Metaphors are uſual in Writs; I dare be bold to ſpeak there are more Metaphors in the Regiſter, than in any Book, *Regiſter* 61. *Turba, &c.*

Prout in ſe. Bif.

Then they have left no ſtone unrolled in this Caſe. Now, they ſay the Kings Teſtimony by His Writ is not ſufficient, for that under favour it is *Teſte meipſo*, without exception we are bound to give credit unto it, 1 *Eliz. fol.* 105. *Ne exeat Regnum*, the King affirms *I. S.* will go beyond Sea. Saith the Book, this averment of the King in His Writ it is not Traverſable, you ſhall not aver againſt it. The Caſe remembred by Mr. *Solicitor*, which was miſtaken by Mr. *Hoborn* in the Anſwer *Hill.* 20 *E.* 1. *Coram Rege Rot.* 14. he ſaid theſe words vouched in the Record, was but the ſaying of the Kings Council, and not the opinion of the Court; clear otherways, for it was the ſaying of the Judges, and then agreed *quod Dominus Rex eſt ſuperlativum Recordum & precellens*; will your Lordſhips give credit to the Certificate of the Marſhal of the Kings Hoſt.

To the Certificate of the Captain of a Company if the men be in the Kings ſervice, 11 *H.* 7. *fol.* 5. to the Certificate of a Biſhop in caſe of Baſtardy, to the certificate of a Major and Aldermen by the Recorder, 5 *E.* 4. 30. 21 *E.* 14, 16. and will you not admit of the Certificate of the King by his *Mittimus*.

Next exception was taken to the *Scir' Fac'*, that this *Scir' Fac'* ought not to go forth upon this as a Duty to the King.

1. The Writ 4. doth direct a form of levying, which is by diſtreſs or impriſonment of thoſe that are Rebels.

2. It is no Duty to the King, and therefore ought not to be levied by *Scir' Fac'*.

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My Lords for this, this Duty is a Duty to the Common-Wealth. It is *pro defenſione Regni Theſaurus publicus reſpicit Regem*; whoſoever ſhall detain any publick Duty, he may be queſtioned by the King as the Head of the Body; for that it appears 27. *Aſſ. pl.* 17. It was declared, that *J. S.* and *J. D.* had levied 100 Marks on the County for the Array of certain Archers, which Money did not come for the Profit of the King. Out of this I obſerve two things. 1. This Money that was for Archers, the Money was levyed on the Body of the County. 2. Recovered by an Indictment at the Kings Suit, 27 *Aſſ. pl.* 17. 11 *H.* 4. *fo.* 2. the Fee of the Knight of the Shire that ſerves by Parliament, they are reckoned amongſt publick Duties; therefore the Goods of a ſtranger may be taken within the Town to pay thoſe Fees: If the Money be not paid, the diſtreſs may be ſold, for it is for a publick Duty, 11 *H.* 4. 2. ſo is the Book, *Reg.* 19. 2. The King commandeth the Sheriff to levy thoſe Fees, as well within his Liberty, *quam extra*, *Hill.* 20 *E.* 3. *Rot.* 57. *coram Rege Juratores Hundredi &c S.* They make a Preſentment, that *J. S.* and *J. D.* Chief Conſtables of paid Wages to Archers which went not beyond Sea.

So as by this Record, it appeareth, theſe publick Duties are recoverable at the Suit of the King, *Quia ad opus Domini Regis*, *Pat.* 14 *E.* 1. *M.* 1. 14. The King commandeth an Account to be taken of the Murage, and how the Sums have been imployed, *P.* 15 *E.* 1. *coram Rege* 70. *Do. Rippon* was Beſieged, they gave Hoſtages; Promiſe made by the Town, that thoſe Hoſtages ſhould be redeemed, they were not, complaint made unto the King, and came to the *Kings-Bench*; and theſe Monies being 700 *l.* that was promiſed by the Town, for bringing back of thoſe Hoſtages, was ordered to be paid, becauſe it was for the publick Service: So for other things that are *pro Communi utilitate int' Co'ia*, *Hill.* 5 *E.* 4. *Rot.* 4. *Aurum Reginæ*, due unto the Queen, may be levied by Proceſs out of the *Exchequer* in the Kings Name; nothing more uſual. This *Scir' Fac'* it is grounded upon the whole matter, the Writ 4 *Aug. Cart.* and *Mittimus*, and commanded that the Defendants ſhould ſhew cauſe why they ſhould not pay the Monies aſſeſſed upon them for the publick Service.

My Lords, I have done with the Objections, I ſhall come to the Judicial Records, 24 *E.* 1. *ad Cuſtodiam Maris*. *Bark-ſhire*, an Inland County, refuſed to contribute; the Names of thoſe that made default were certified into the *Exchequer*.

It appeareth by the Records cited, that Proceſs went out of the *Exchequer* in the ſtricteſt manner, a *Capias* of their Lands, Tenements, Goods and Chattels; and that their Bodies with Horſe and Armour be ſent to *Portſmouth*; ſo, beſides the doing of their Services, the ſeizure of their Lands and Goods. The ſame year, *ex parte Rem' Theſaurar'*, on the other ſide *Jo. de S.* gave information unto the Chancellor of the *Exchequer*, and Barons, in the abſence of the Lord Treaſurer: A Biſhop of the preparation of Men in *Flanders*, (this being remembred before to another purpoſe:) It appeareth, after Conſultation had, they did reſolve to ſend forth two Writs, one was to the Town, the other to *T. H. Cuſtos Maris*, to call all for defence of the Maritime Parts; *ex parte Rem' Regis*, 24 *E.* 1. *Rot.* 80. *Henry Huſſey* was ſeized of the Manor

An. 1637. Mannor of *W.* in *Bark-ſhire*, he was aſſeſſed to find a Horſe *pro Cuſtod' Marit'*; he complained in the *Exchequer*, he had not the whole Mannor, and yet was aſſeſſed to find a whole Horſe; ſo he did not come and ſay, I ought not to be taxed; he ſubmitted to the Power, and deſired a mannerly Contribution, 25 *E.* 1. *Rot.* 72. The Abbot of *Robertsbridge* Caſe remembred on both ſides divers times; under favour, the joyning of the Iſſue in the Record, is a very full Proof in the Caſe; he brought a Replevin againſt *Jo. S.* for taking of his Goods, an In-land Town in *Kent*, he pleadeth the Confirmation between our King and the King of *France*, and *Leyborne* aſſigned keeper of the Sea. That the Plaintiff was aſſeſſed unto 7 *l.* 7. *d.* *Anno* 22. 13 *l.* 23. 15 *s.* 24. and the Defendant being Collector, did diſtrain. The Plaintiff did not ſay in Bar of this, he ought not to be taxed; but he was ſeſſed *ad inveniend'*, &c. for ſuch Lands.

The Defendant, ſaith the Plaintiff, did hold other Lands in the County, and for that Land he was ſeſſed; now, this doth admit the Power of taxing, *Hill.* 16 *E.* 3. *Rot.* 23. *coram Rege.* The Jury of *Norfolke* did preſent, that *J. Ruſſel* and others, 8 *E.* 3. were Hoblers elected in the Hundred of *T.* and ſtaid at home; they plead, not guilty; the Jury find that *Jo. Ruſſel* did perform the Service, but *Jo. S.* did not perform, therefore committed to Priſon, and paid a Fine unto the King. By this Record it appeareth, the Money paid to the Archers and Hoblers was at the Counties Charge.

Methinks the diſclaimer that is by the Commons, 13 *E.* 3. *Parl. N.* 9. 11. is in nature of a Judgment in this Caſe; for there they did diſclaim they had no Conuſance; and there likewiſe, upon their own confeſſion, that the Maritime Parts ought to defend at their own Charges, as the In-land Parts the In-land Counties: This Confeſſion, 13 *E.* 3. is a ſtrong Argument, *Parl.* 21 *E.* 3. *Rot.* 20. when the Commons did petition *de garde le Mare*, anſwer *ſoit garde fait*; and that was at the Charge of the Country, as your Lordſhips know.

20 *E.* 3. Divers Ordinances made, which Ordinances made had the force of a Law: The King and His Council did ordain, *Quod omnes ill.*, &c. which have ſuch a quantity of Land, ſhould be ſeſſed to find one Archer. *Decem libr' terre Hobelar', viginti lib' 2 Hobelar', 25 lib' unum hominem ad Arma.* This appeareth *Era.* 20 *E.* 3. *pars* 1. *M.* 17. in the County of *Bedford* and *Buck.* In the ſame year another Ordinance, that thoſe that did recide with their Families, *cum toto poſſe*, within ſix Miles of the Maritime Parts, were excuſed for finding of Men without.

My Lords, Upon the occaſion of this Service there was divers refuſals made. Certificate by *Mittimus* of their Names into the *Exchequer*, as in this Caſe. *J. T.* and *W. G.* were certified defaulters among other; upon this the Court of *Exchequer* they award Proceſs againſt theſe Men and others, which was a *Capias in manus*: Seizure of their Lands and Goods; they came in and pleaded, that they did recide *infra ſex lures*, with their Families, and all their Power: Iſſue joyned upon this, Jury Impanneled; and it appears, thoſe that were found within ſix Miles, Judgment *quod ſine die*, but for others impriſoned and fined, for ſo much Land as they had without

out the ſix Miles, for that they were charged. If I ſhould number unto your Lordſhips all the Judgments in this kind, I might ſpeak here till to morrow morning. 13 *Caroli.*

P. 22 *E.* 3. *int' Co'ia* in the *Exchequer*. *P.* 22 *E.* 3. *M. H.* 22 *E.* 3. *P.* 25 *E.* 3. *M.* 25 *E.* 3. *P.* 27 *E* 3. *P.* 28 *E.* 3. And there is a great number of other years of 29, 30 *H.* 4. And, my Lords, according to thoſe Judgments, *Trin.* 21 *E.* 3. *Rot.* 3. The Writs went forth for diſcharging of ſuch as had recided upon their Lands within ſix Miles, 21 *E.* 1. *Pipe Roll*, diſcharged, becauſe they were in the Kings Service: So as, my Lords, out of theſe Records thus much may be collected. 1. They affirm the Kings Power in the Aſſeſſing and Levying. 2. Then they are grounded upon thoſe Ordinances made by the King and His Council. 3. Proceſs went out of the *Exchequer*, and not in the Kings Name, *M.* 22 *E.* 3. *Parl. coram Baronn.* Iſſue joyned, whether *J. S.* had Land to the value of 40 *l.* to find Hoblers: If he had, then he was to do it.

My Lords, I have now done with the Judicial Preſidents. I have cited ſome few among many other. It is now time, after ſo long Premiſſes, to draw unto ſome concluſion.

Wherein your Lordſhips have heard, 1. That the King of *England*, that He is an abſolute Monarch, and that by the Common Law of *England* all thoſe *Jura Summæ Majeſtatis* are inherent in His Perſon.

This *Supremum Dominum*, for all the Land that any Subject holdeth, it is derived from the Crown: And as *Plowden* putteth it, 12, 13. That there is a Tacite Condition in Law annexed upon his Grant, that his Officers may do Juſtice, to execute his Proceſs ſurely upon his Grant.

This Tacite Condition may be ſubject to a common Defence; Supream Juriſdiction both by Sea and Land was never yet impeached. And from him lieth no Appeal. And originally, by the Inſtitution of the Laws of this Realm, what was once in his Hand was never granted from him; he hath abſolute Power of concluding War and Peace: all theſe are in him as he is an abſolute Monarch, and holdeth in his Kingdom under none, but God himſelf. It hath appeared, that the principal part of this Kingly Office conſiſts of the Defence of the Realm: That as his Juriſdiction is by Sea and Land; ſo is his Defence: And this hath been made appear unto your Lordſhips, both by Preſidents before the time of *William* 1. and ſince, *pro Communi utilitate*; and in Caſes of neceſſity the Kings of *England* may Ordain by their Proclamation, Writs, Patents, by the advice of Council and Judges in Legal Matters, that the King is the ſole Judge of this danger, both for the prevention of it, and for the avoiding of it. Therefore for us to diſtruſt, that he will command too great a Power or Aid, it is a preſumption againſt a preſumption of Law. It has appeared likewiſe, that all the Incidents of Defence is inherent in His Majeſty; we cannot build a Fort or Caſtle on our own ground without Licence. Your Lordſhips have heard the Preſidents particular and general: The Preſidents which have univerſal Reaſons, *Quod omnes ex debito aſtricti ſunt*. Writs awarded by the Kings Royal Power in time of Parliament, when Parliaments were, and in thoſe years when great

Aids

An. 1637. Aids and Subſidies were granted to the King, many times no cauſe declared, nor the occaſion diſcovered. There is no Act of Parliament made to take away this Power; and the Judicial Preſidents which your Lordſhips have heard, have affirmed this Royal Power.

My Lords, If there were no Law to compel unto this Duty, yet Nature, and the Inviolate Law of Preſervation, ought to move us: Theſe Vapors which are exhaled from us will again deſcend upon us in our ſafety, and in the Honour of our Nation. And therefore let us obey the Kings Command by His Writ, and not diſpute. He is the firſt mover amongſt theſe Orbs of ours, and He is the Circle of this Circumference, and He is the Center of us all, wherein we all as the Loyns, ſhould meet; He is the Soul of this Body, whoſe proper Act is to command.

I ſhall need to uſe no perſwaſion to do Juſtice in this Cauſe: And therefore I ſhall humbly deſire Judgment for the King.

The end of Mr. Attorney-Generals third days Argument.

Paſſages in Mr. Holborne's *firſt days Argument for Mr.* Hampden, *in his Reply to Sir* Edward Littleton, *His Majeſties Solicitor-General, in the Caſe of Ship-Money, which gave occaſion to the Court to reflect upon in his Argument.*

May it pleaſe your Lordſhips,

IN obedience to your command, I am ready to argue, though not as I deſire, nor as the Cauſe deſerveth, it being impoſſible for one in ſo ſhort a time to be fitted to make a Reply (the life of the Cauſe) to an Argument ſo long learned, and ſo full of Records, wherein neither Labour nor Learning was wanting. I ſhall now rather ſhew your Lordſhips what I might do, than what I ſhall for the preſent, well hoping my Clyent will excuſe, and your Lordſhips greater care ſupply my defects.

After he had opened the ſeveral Writs, he ſaid, My Lords, I ſhall proceed to the ſtating of the Queſtions, which are Three.

The Firſt, which is a chief one, is this, Whether upon the whole Record the Caſe ſo appears for the King, that 4 *Auguſti* 11 *Caroli* being the day of the Date of the Writ, the King could charge the County of *Bucks* to find a Ship at their Coſts and Charges?

2. By way of admittance, if he could yet, Whether the King can give Power to the Sheriff to Aſſeſs the County, as in this Caſe?

3. By

3. By a further Admittance, admit the King had Power to Charge, and Power to Aſſeſs, Whether can he levy the Money unpaid by this courſe of *Certiorari* and *Mittimus*, as he might do if it were his own proper Debt? 13 *Caroli*.

The firſt Queſtion is, Whether or no upon the whole Record the Caſe appears ſo for the King, that 4 *Auguſti* 11 *Car.* being the Date of the Writ, the King could by His Writ charge the County of *Buckingham* for finding a Ship of War? As it hath been on His Majeſties part ſtated, by the Kings Solicitor, who ſtated his Queſtion in theſe Words.

The Queſtion as it was ſtated by the Solicitor-General.

BEfore I enter into my Argument, becauſe the true ſtating of a Queſtion in this and all other things doth exceedingly conduce to the clearing of a thing in queſtion. I ſhall in the firſt place obſerve the Writ Dated 4 *Auguſti* 11 *Caroli*, (the ground of this Aſſeſs) which was directed into *Buckingham-ſhire*, and into all the Counties of *England*; and this was for raiſing of Money towards the Proviſion for Ships for the Defence of the Kingdom, with a notable Circumſtance, *Quia ſalus Regni periclitabatur*; which being expreſſed in the Record, is confeſſed by the Defendants demurrer; and not only ſo, but teſtified by the King Himſelf under the Great Seal, (in the *Mittimus*) and in all matters, eſpecially concerning the publick ſafety. The King is *Recordum Superlativum, & ſuper precellens*, as is ſtiled in the great Caſe between the Earls of *Glouceſter* and *Hereford*, 20 *E.* 1. ſo that the Queſtion is only thus; Whether the King, finding in His Judgment the ſafety and preſervation of the Kingdom and People, neceſſarily and unavoidably to require the Aid commanded by this Writ, may not command ſuch Aid by Writ, for ſaving and preſerving the Kingdom and People?

Wherein, I confeſs, there is not a word but hath its weight. As to this Queſtion thus made, I ſhall make three Exceptions, which are things taken in to be granted, which I ſhall not agree to, if I can avoid them.

1. That, at the leaſt, in the Kings Judgment, the ſafety and preſervation of the Kingdom was endangered 4 *Auguſti*; that is, that the Kingdom was in danger to be loſt.

2. If it be ſo, that the Kingdom was in ſuch danger, and that the danger was ſo inſtant and unavoidable, that it neceſſarily required this Aid by this Writ, (that is) it required a preſent Charge of Shipping preſently, 4 *Auguſti* 11 *Caroli*, to be forthwith commanded, and that the expectation could not ſtay for a Parliamentary Conſideration and Supply: Theſe be the things wherein we differ.

And laſtly, for the truth of it, that the Certificate under the Great Seal, was ſufficient in a Legal way. Theſe are three things to which I take exception.

My Lords, To find out whether the Record doth warrant theſe three things of great importance: Firſt, I ſhall ſeek for them in the Writ 4 *Auguſti*, and next in the *Mittimus*; there is no colour elſe-were to look for them; to open the Writs rightly will clear theſe differences, as I humbly conceive, without any great Argument. And firſt the Writ dated 4 *Auguſti* 11 *Car.* I ſhall read the words

An. 1637. words wherein the dangers of the Writ are expreſſed; and then explain what words give that ſence that is taken out of them. *Quia datum nobis intelligi, quod Prædones quidam Pirati & Maris Graſſatores tam Nomine Chriſtiani Hoſtes Mahumetani quam alij Congregati; Naves & Bona & Mercimonia non ſolum ſubditorum noſtrorum, verum etiam ſubditorum Amicorum noſtrorum in Mari, quod per Gentem Anglicanam ab olim defendi Conſuevit: Nefarie diripientes homines & ſpoliantes ea ad libitum ſuum deportavere, hominesq; eoſdem in Captivitate Miſerima Mancipantes: Cumq; ipſos conſpicimus*, &c. Here are the Cauſes and Occaſions; all that come after are not material to the ſtating of the Queſtion.

My Lords, in the opening of this Writ, it is true there was mention of loſs by Merchants, ſome particular Members of the Kingdom, and this loſs but by *Prædones Pirati quia Mahumetani & alij*; and though *alij*, yet *Pirati* ſtill, and no more, then it ſaith *ipſi*; ſtill theſe Pirates daily moleſt the Merchants, *ad gravandum Pirati* ſtill.

Hitherto, I conceive, there is *not a word of danger from an Enemy*, but from Pirates; not a word of danger to the Kingdom, but to Merchants; however all this is *quod intelleximus*.

The Record goes on thus, *Conſideratis etiam periculis*, &c. This part, as I conceive, is not ſo poſitive, the dangers are but *Conſideratis*, nor the danger to the Body of the Kingdom, no word of that; or if to the Kingdom, yet nothing, whether it be in point of ſafety, but only in point of moleſtation, none of all theſe appears.

And beſides, the Clauſe is too general, not expreſſing any particular danger, from whom, or how; however, be the danger to the one, or to the other, be it to the Kingdom or Merchants, be it for troubles or ſafety; hitherto I may ſay, that there is no mention of any ſuch inſtant danger, as neceſſarily did require this inſtant command in the Writ, not ſo much as in the Kings Judgment.

For ought it appears, a Parliament, even in the Kings Judgment, might have been called, a conſideration taken for Defence: Here be all the Premiſſes upon which the Concluſion muſt ariſe; and hitherto nothing material to make a danger to the ſafety of the Kingdom, and ſo inſtantly that a Supply, *nunc aut unnquam*, muſt come in. Although the Premiſſes, I conceive, are only conſiderable, yet even the concluſion will be but this, *convenit accelerare*, it is fitting to haſten, but no ſuch neceſſity; and though it be *convenit accelerare pro defenſione Regni*; if that were material, it cannot be conſtrued but with relation to the Premiſſes, whereupon it is built; and whether in fear of trouble, or danger, or loſs, *non conſtat*, and though it be *cum omni feſtinatione*, yet it is *quia poterimus*, and that is *poſſumus quod jure poterimus*, that is, with all the haſt that by Law you can make, which way that is your Lordſhips have heard.

Now, my Lords, under favour, it appears on the Record, that there was no ſuch inſtant neceſſity, but that a Parliament might have been time enough; for as it was obſerved, that between the Teſt of the Writ, and the Randezvous, there was 200 and odd days, where-

13 Caroli.

whereas a Parliament required but 40 days for meeting, the remainder of theſe 200 days a Parliament might have conſidered of the means of a Defence; but I leave it to your Lordſhips to judge, notwithſtanding thoſe expences of time cunningly numbered unto your Lordſhips by the Solicitor; and though it be true, that things oftentimes are long in ſetling, and deliberation in Parliament; yet Nature tells us, they can be done ſooner; and if there be a neceſſity, we know that will inforce.

I have but opened this Writ *quarto Auguſti*: I am now come to the *Mittimus*. The only doubt which I conceive in the Writ of *Mittimus*, is only that where the Caſe ſtands but thus.

In this Writ is recited the Tenor of the Writ dated *quarto Auguſti*, and then the Writ goes on, and ſaith, *Quia ſalus Regni periclitabatur*, &c. and that is all the Clauſe in the Record that doth give colour to the Caſe, ſo it be made, and on the whole Record we have demurred; here it hath been ſaid, that we have confeſſed all by the Demurrer; and if that hold not, the King, who is the Judge of the danger, he hath ſaid ſo, he hath certified it ſo by the Great Seal.

I ſhall ſelect a few from many other, on which I ſhall rely.

My firſt Anſwer is this here, the words are, that *ſalus Regni periclitabatur*, theſe words in ſhew ſeem to be poſitive, but in ſubſtance but relative, and is rather a Comment on the Writ, or an abſtract in Point of thoſe dangers mentioned in the Writ, for the Clauſe was brought in on the Return of the VVrit; and if we have the VVrit it ſelf, the Comment thereupon, or further explanation thereof, is not material.

2. Second anſwer I doubt, I ſay no more; if the King put particular Reaſons into the VVrit of *quarto Auguſti*, whether the Law, I ſpeak of the Legal Courſe, do permit an After-VVrit to put in further Cauſes of the ſame nature with the former, and to the ſame end.

If the Caſe be thus, our Demurr will be no confeſſion of any ſuch danger.

In the next place, admit the words in the VVrit had been Poſitve, and materially expreſſed; yet, according to our Rules of Law, it cannot make uſe of that ſence they are now applyed unto; for, at the beſt, the word *Salus* being proper only to a Phyſitian, Natural Body is applyed as a Body-Politick: It is but a Metaphor which the Law will not endure in VVrits, for it would bring in great miſchief in Writs and Pleadings. Metaphors are dangerous; we know not how to take Iſſue upon it; and therefore is not regularly allowed; but I leave it to your Lordſhips Judgment.

There are no words of ſuch danger of the loſs of the Kingdom, that is ſuch inſtant danger; for apply the words to a natural Body, as *Salus*, *J. S.* is in danger, it doth not preſently imply it, that he is in ſuch inſtant danger of Death; a Doctor will ſay, that a Patient hath not his Health, yet no danger of death, which is the common ſpeech; the ſame ſence it muſt have in a Body-Politique.

If the words were good, and did imply a danger, yet not ſuch a danger of words, as ſhew a danger that may hazard the loſs of the Kingdom; for the words are only *Salus Regni periclitabatur*, and

An. 1637. the thing may be now in action, which twenty years hence, if not prevented, may loſe the Kingdom: A Man may ſay that ſafety is in danger, at the beſt, the words will not make the Caſe as it is put.

Mr. Solicitor, out of his great care, ſearching into every hole where he thought we might peep out, doubting our Demurrer would not be a Confeſſion ſufficient; he takes in another help, which is this, that if this be ſo declared by the Kings opinion, and under the Great Seal, that this alone had been ſufficient: for this there hath been urged the legal weight of the Kings affirmation, and of a Certificate under the Great Seal, and both be concluded in this Caſe.

My Lords, before I anſwer unto this matter, I profeſs for my Client and my ſelf, that we owe as much Loyalty to the King our Sovereign, as any; yet I hope I ſhall be permitted in a legal way to have the Priviledge of them that uſually ſpeak in this place: In ſpeaking what is pertinent and material for my Client, I make no doubt of the Kings word, and believe there was danger, though not ſo apparent to us, but only both to allow it as ſufficient in a legal Proceeding, and that His Majeſty, who in His own worth deſerves it, by after Princes might turn to diſadvantage. That which we urge is, how far in form of Law this may be allowed, which we ſhall argue, and that briefly, for the Caſe needeth not help.

For this Point, I take it for clear, under your Lordſhips favour, that in legal Proceeding, and regularly, His Majeſties Opinion and Certificate in things of fact, is not binding.

My Lords, the Reaſon wherein I ſhall moſt rely to avoid the ſence of the Writ *Salus Regni*, &c. is this, That though it do now appear by the *Mittimus*, that *quarto Auguſti* the Kingdom was in danger of being loſt; yet it is not ſufficient in Law, nor can our Demurrer hurt us, becauſe it muſt have ſo appeared by the Writ *quarto Auguſti* it ſelf; for the Writ and Declaration in Law muſt ever contain preciſely ſo much of matter, as is neceſſarily true to warrant the demand.

In this, to ſee the miſchief, if a danger now declared makes the Caſe, how ſhall the Subject know on the Writ *quarto Auguſti*, whether to obey or no? the Law binds no Man to divine; and if this ſubſequent Declaration ſhall mend the Caſe, then the Subject ſhall be a wrong-doer, *ex poſt facto*, which is againſt the reaſon of our Books. I ſhall remember the Caſes put by Mr. *St. John* to another purpoſe, 22. *Aſſ.* 5. 24 *E.* 3 *Br. Com.*

A Commiſſion ſent forth without expreſſing the cauſe, that Commiſſion is not good, and it is not denied by Mr. Solicitor; a cauſe muſt be ſet forth to make it good in Law. And if your Lordſhips be pleaſed to look on the Preſidents, (as I know you will) which the Kings ſide ſhall bring unto you, your Lordſhips will find the danger turned from the firſt Writ to the laſt; nay in the Writ of this year, as I am told, it is ſo, out of their opinion fearing the Writ *quarto Auguſti* was not ſo good as they would have it; they put it into the *Mittimus:* which they know could not do good, but they did it only to cavil.

But

13 *Caroli.*

But laſtly, admit that the King had ſaid, that the Kingdom was in ſuch inſtant danger and loſs, and that there was an inſtant neceſſity of the command this way, and that this could not have expected a conſideration in Parliament; yet if the contrary appears in the Record, then neither was the Demurrer a Confeſſion, nor the Certificate concluſive.

My Lords, In the concluſion upon all this diſcourſe it appears, I have ſo pared the Caſe, that on the Writ dated *quarto Auguſti* there appears no danger to the Kingdom of being loſt; that on the *Mittimus* there is no legal home-expreſs words of danger to the Kingdom, inſtant or unavoidable; if it were ſo, yet it cometh not time enough, for it ſhould have been in the Writ dated *quarto Auguſti.*

And if expreſſion of ſuch inſtant danger in *Quarto* or *Mittimus*, yet not material, if otherwiſe on Record.

And laſtly, this Certificate doth not conclude us: Thus then to ſhew what the Caſe is, and to what it is not, I have put out of the conſideration of the Caſe, all conſideration of ſuch dangers to the ſafety of the Kingdom as are unavoidable.

I have left nothing in the Caſe but conſideration of protecting Merchants againſt Pirates, but for ordinary Defence of the Sea.

If the Caſe do fall thus, I humbly conceive, that in this place without further Argument, I might with ſome confidence venture my Client upon your Lordſhips Judgments, notwithſtanding any thing offered on the Kings part. Here Mr. *Holborne* made a little ſtay, but the Lord Chief Juſtice *Finch*, in the name of the Court bid him proceed in his Argument; then ſaid he, By your Lordſhips command I ſhall proceed, having laid aſide the *Mittimus*, and *Salus Regni*, and taking the Caſe only on *quarto Auguſti*, which as I take it, is nothing of danger to the Kingdom, but againſt Merchants, and but of common Defence: The Caſe ſtands thus.

That though there be no actual Invaſion, no known or declared Enemy, yet the King, out of His Judgment, *quarto Auguſti* 11 *Car.* apprehendeth, and foreſeeth danger to the Kingdom in point to be loſt; and that the danger ſo inſtant and unavoidable requireth this Aid, whether the King out of Parliament, by His Regal Power, can command this Supply?

I have endeavoured not to miſtake the Solicitor; it were an injury to requite him ſo ill.

Upon the whole my end is to ſhew, that by the fundamental Policy of *England* the King cannot, out of Parliament, charge the Subject, neither for common good, unleſs in ſpecial Caſes, and of a different nature, or upon different reaſon, nor for a neceſſary Defence, though, in the Kings Judgment, inſtant and unavoidable.

My Lords, In the debate of theſe two Queſtions I have learned of Mr. Solicitor not to ſay all I could, but ſo much as is neceſſary; and as he hath chalked out the way, I ſhall enquire on this Power by Arguments upon practice conſtant and allowed in time of good Government, when the liberty of the Subject was not trampled upon, and ſhew it by Acts of Parliament, Reaſon and Authority on both.

My

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My Lords, I am now come cloſe to the Argument upon the main; before I begin give me leave to profeſs that I am in a Dilemma, the Queſtion will be what the King can do in thoſe Caſes by his Regal Power: it much concerns him, and I have learned out of a Speech of his late Majeſty what it is to debate ſuch queſtions; not to argue it were to diſobey the Aſſignement of the Court, and to deſert my Client and the Cauſe; for my Part, as your Lordſhips ſee I have laboured to decline the main Queſtion, and ſhould be glad it ſhould ſo ſleep: I ſhall offer it if happily the caſe fall off in the opening of the VVrits, I doubt whether the way of Argument I muſt otherwiſe take ſhould do the Crown diſſervice.

Out of my duty to His Majeſtie, and ſervice to your Lordſhips I humbly offer it whether your Lordſhips may not think it fitting to determine the Queſtion upon the framing of the caſe as it is upon record, before it be further argued; and here I ſhall reſt, or upon Command ready to go on.

Hereupon the Court declared by the Lord Chief Juſtice *Finch*, that they do not uſe to Judge Caſes by Fractions, whereupon Mr. *Holborn* ſaid, ſince it is your Command I ſhall obey and go on.

I hope His Majeſty will excuſe us for arguing that which elſe cannot be determined, and as he hath given way to an Argument, I hope his goodneſs will excuſe us while we do our duty for our Clyent, and if I err in my materials, or in the way of my arguing, it's from the defect of my wiſdom (I cannot be wiſer than God hath made me) and not out of any diſaffection to the ſervice.

My Lords, I hope neither His Majeſty nor your Lordſhips will think it a preſumption if I make a ſtraight enquiry into a point of a higher nature, yet thus far I aſſure your Lordſhips, if any matter or conſideration of State come in my way, I ſhall tread as lightly as I can, yet I muſt crave liberty to pick out ſome to refer to your Lordſhips Conſideration, and forbear thoſe things that are unfit. Here the Court ſaid by the Lord Chief Juſtice *Finch*, keep you within the bounds of duty, as befits one of your Profeſſion at the Bar at *Weſtminſter*, and you ſhall have no interruption.

My Lords, I ſhall be very wary and tender: I ſhall now open the diviſion and ſeveral parts of my Argument.

My Negative part, that the King cannot out of Parliament charge the Subject, not only for guard of Sea againſt Pyrates, but not for the defence of the Kingdom ordinary though the King judge the Kingdom to be loſt and unavoidably endangered, and in this I muſt take in the defence, as well the defence of Land as Sea.

My poſitive part, regularly the King is to be at the charge for guarding the Sea againſt Pirates, for defence of Land and Sea againſt Enemies ſo far as he is able, and further if he were more able, and that the King hath proviſion and conſideration for both, and eſpecially for Sea-ſervice.

In the proſecution of theſe two general parts, I ſhall not only propoſe mine own conſideration, but joyn them with Mr. St. *John's* as I can further inforce them, or juſtifie againſt the Solicitors denial or evaſion.

And

13 *Caroli.*

And this courſe will neceſſarily bring in many of his Arguments, which I could be glad to ſpare if the cauſe would bear it, becauſe your Lordſhips ſhould not think that I do nothing but repeat.

In this way I ſhall humbly endeavour to clear each part by giving a reply before I deſcend to other particulars, and where I conceive a new Objection which will not fall within any former Anſwers, I will raiſe it and endeavour to lay it. Into theſe general Queſtions will fall many other of greater conſequence.

For ſuch as not being the main, I will not draw upon particular debate where there is any thing that concerns matter of State or revenue, I hope to admit ſuch and ſave my Clients caſe.

Having thus unfolded my form of Argument, I deſcend to my Negative, that the King in none of theſe caſes without Parliament can charge the Subject.

1. I'le prove it from reaſon, which is Maſter over all Authority as ſaid Mr. *Solicitor*, and from reaſon drawn from the fundamental policy of the frame of this Engliſh Government, in the neceſſary attendance of the publick advice in Parliament upon the Royal Power: And ſecondly from the abſolute property the Subject hath in his Lands and Goods. From theſe things I ſhall draw my Reaſons.

For the political advice in Parliament, I ſhall here decline all School diſputes, the Spider may make Poyſon out of that which the Bee ſucks Honey; I ſhall omit the conſideration of ſome points, I ſhall make my riſe from the Judgement of King *James* 169. in his Speech of Parliament, wherein His Majeſty agrees that a King in *Concreto* can do no more than the fundamental Laws of the Kingdom alloweth, for more I aſſure my ſelf His Majeſty deſireth not.

Before I enter into the Argument further, whether the Law hath intruſted the King out of Parliament in either of the caſes put, I here profeſs for my Client and my ſelf, that while we ſpeak of political advice, and how far a Governor is ſubject to Error and Will may uſe a Regal Power, we do always with thankfulneſs to him acknowledge our preſent happineſs to be bleſſed with ſo juſt a Prince, and we fetch it from our hearts, and were His Majeſty ſo immortal as he deſerves, and that His Succeſſors might be Heirs to His Vertues and His Crown, we ſhould wiſh that the Regal Power might be free from political advice and unlimited.

L. C. J. *Finch.*

Here my Lord Chief Juſtice *Finch* ſaid, this belongs not to the Bar to talk of future Government; it is not agreeable to duty to have you bandy what is the hopes of ſucceeding Princes when the King hath a Bleſſed Iſſue ſo hopeful to ſucceed him in his Crown and Vertues.

My Lords, For that whereof I ſpeak, I ſpeak looking far off, many ages of 500 years hence.

My Lords, Becauſe I might run on to a further error, if I ſhould not take your advice I ſhould ſlip over much, and the ſum of all is;

1. An Argument from the Policy of *England*, in the neceſſary attendance on the particular adviſe in Parliament.

2. It

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2. It will be from the abſolute property that the Subject hath in his Goods.

Taking that for granted againſt the Book of *Covel*, the Proclamation againſt it in the year of King *James*, that *Covel* hath written under the word Parliament, of the Kings Power out of Parliament, ſaith, that Power in Parliament is but a politick mercy; this was complained of in Parliament, and by a Proclamation the Book was denied: your Lordſhips know another Book that was ſentenced upon the ſame occaſion; this uſe that I make of it is,

If the form of *Engliſh* Government ſtand in the Regal Power, and the Subject hath a property in his Goods, then the adequate reaſon from both theſe, that therefore the King cannot without Parliament charge the Subject in his Eſtate, though in pretence of common good, then a Prince 500 years hence, if ſubject to Error or Will, may if he will upon any occaſion or no occaſion, may at what rate he will charge the Subject to the height.

As to the advice political, if the King can do this alone, what is become of the policy for which the political advice was made, attendant to the Regal Power, *Ne reſpub. &c.*

If the Subject hath a property in his Goods, how is it in the power of any one alone to charge that with mony.

This reaſon I muſt not leave, for on this the Cauſe ſtands or falls; though there be many Books and Caſes, yet all are from reaſon, but eſpecially when theſe ſtand together.

The Author here breaks off with theſe few paſſages in Mr. *Hoborns* firſt days Argument, which continued three days longer; here followeth the days that the Councel of both ſides argued upon, *viz.*

November 6. 1637. *Oliver* St. *John* of *Lincolns*-Inn Eſquire Argued.
November —— He concluded his Argument.
November 11. Sr. *Edward Littleton* Knight, the Kings Solicitor-General Argued.
November 13. He Continued his Argument.
November 14. He ſtill Continued his Argument.
December 2. *Robert Holborn* of *Lincolns*-Inn Eſquire, Argued.
December 4. He Continued his Argument.
December 6. He alſo Continued his Argument.
December 8. He Concluded his Argument.
December 16. Sir *John Banks* Knight, the Kings Attorney General Argued.
December 18. He Concluded his Argument.

It was *Trin. Term.* 1638. before Judgement was entred in this Caſe, and in regard that year will be clogged with much matter of preparation for a War with the *Scots*, &c. We ſhall here inſert though out of time, theſe following Orders concerning the entring Judgement againſt Mr. *Hambden*, *viz.*

Termino

13 *Caroli.*

Ex parte remanet, Regis.

Termino Sanctæ Trinitatis Anno 14. *Regis Car. Martis* 11. *die Junij.*

Bucks. An Order upon Mr. Attorney Generals Motion to enter Judgment againſt Mr. *Hampden.*

WHereas divers ſeveral ſums of mony, by vertue of the Kings Majeſties Writ, under the Great Seal of *England*, bearing date the 4*th* of *Auguſt*, in the 11*th* year of His Majeſties Reign were Aſſeſſed and Charged upon ſeveral Perſons, for, and towards the proviſion of a Ship of War, together for the Furniture and other things thereunto belonging, in the ſaid Writ particularly mentioned; which ſaid ſeveral ſums of money ſo Aſſeſſed and Charged and not being ſatisfied and paid, the names of the ſeveral Perſons, together with the ſeveral ſums charged upon them, were by His Majeſties Writ of *Certiorar'*, bearing date the 9*th* day of *March*, in the twelfth year of His Majeſties reign, certified into this Court of Chancery, and by His Writ of *Mittimus* under the ſame Seal, bearing date the 5*th* day of *May*, in the 13*th* year of His Majeſties reign, were ſent into this Court of Exchequer for further Proceſs to be had thereupon, as by the ſaid ſeveral VVrits may appear: And whereas Proceſs of *Scire Facias* was the 22*d* of *May*, in the ſaid 13*th* year of His Majeſties reign awarded to the Sheriff of the ſaid County of *Bucks*, directed to garniſh the ſaid ſeveral Perſons in a Schedule to the ſaid *Scire Facias* annexed, contained to ſhew cauſe the *utas* of the Holy Trinity then enſuing why they ſhould not be charged, and ſatisfie the ſaid ſums of money aſſeſſed upon them. In which Schedule it was contained amongſt divers others, that *John Hampden* Eſquire was aſſeſſed at 20 *s.* as by the ſaid *Scire Facias*, and the Schedules thereunto annexed may alſo more fully appear; whereupon the ſaid *John Hampden* Eſquire being garniſhed by Sr. *Anthony Cheſter* Barronet, then Sheriff of the ſaid County of *Bucks*, appeared and demanded *Oyer* of all the aforeſaid VVrits, which being read unto him, he thereupon demurred in Law, and Sr. *John Banks* Knight, His Majeſties Attorney General joyned in the ſaid Demurrer; and the Record thereof being made up, it pleaſed the Barons of this Court (the ſame matter being of great Conſequence and VVeight) to adjourn the arguing of the ſame matter into the Exchequer Chamber, and to deſire the Aſſiſtance and Judgement of all the Judges in *England* touching the ſame. Now upon the motion of His Majeſties Attorney General this day informing this Court, that ſeeing the ſaid matter hath been ſo ſolemnly debated and argued, as well by the Counſel of the ſaid Defendant, and by ſome of His Majeſties learned Counſel, as alſo by all the Judges of *England*, and by the Barons of the Exchequer, and that the major part of the ſaid Judges and Barons have delivered their Opinions and Judgement, that the ſaid *John Hampden* ought to be charged with, and to ſatisfie the ſaid ſum of 20 *s.* and therefore the ſaid Mr. Attorney moved this Court that Judgement might be entred accordingly; it is thereupon ordered by this Court that Judgement ſhall be forthwith entred, that the aforeſaid *John Hampden* ought to be charged with and ſatisfie the aforeſaid ſum of 20 *s.*

An. 1637.

Memorandum, that 12 *Junii* 14 *Carroli* Mr. Attorney moved the Court of Exchequer for Judgement againſt Mr. *Hampden*, and after he had opened the Record he ſaid,

YOur Lordſhips and the Court in reſpect of the greatneſs of the Cauſe did adjourn it into the Exchequer Chamber, that your Lordſhips and the Court might receive the advice of all the Judges, whoſe advice and opinion your Lordſhips have already heard and received, and the plurality of their voices is, that Judgement ſhould be given againſt Mr. *Hampden*, and accordingly I do pray Judgement.

To which the Lord Chief Baron anſwered.

It is very true, it was referred from hence to the Exchequer Chamber to receive the advice of all the Judges in the Land, we do not take them to aſſiſt only by way of advice, but for a judicial direction; for admitting we four were of one opinion and the reſt of the Judges of another (though the Cauſe properly depends in this Court) yet we muſt apply our ſelves to their reſolution, and our Voices are involved in theirs, and there accordingly *ſecundum Legem, &c. oneretur Johannes Hampden.*

Now that we have imparted to the Reader the Arguments of two of the Council *Pro & Con*, in the Caſe of Ship-money, the Author begs leave (although out of time) to mention the Articles of Impeachment againſt Judge *Berkley* (one of the Judges before whom that Caſe was Argued) for delivering his opinion againſt Mr. *Hampden*, which is a Preſident as to the reſt of the Judges; for it would be too tedious to mention every particular Judges Charge; and as an Introduction to the ſaid Articles of Impeachment, here is alſo mentioned the Speech of *William Perepoint* Eſquire (a Member of the Houſe of Commons) unto the Lords at the time of the delivery of the Charge againſt the ſaid Earl.

William Perpoint *Eſquire, his Speech in Parliament, at a Conference of both Houſes in the Painted Chamber.*

My Lords,

I Am commanded to preſent your Lordſhips theſe Articles, with which the Knights, Citizens and Burgeſſes of the Commons Houſe of Parliament, in their own name and in the name of all the Commons of *England*, impeach Sir *Robert Berkley*, Knight, one of the Juſtices of His Majeſties Court of Kings Bench, in maintenance of their accuſation of High-Treaſon, and other great miſdemeanors, the Articles they deſire may be read. Whereupon the Articles were read by Mr. *Francis Newport*, a Member of the Houſe of Commons, then Mr. *Perpoint* proceeded and ſaid.

The

13 *Caroli.*

The high Treaſon is in the firſt Article, in his endeavours to ſubvert the fundamental Laws of this Realm, and to introduce an arbitrary and tyrannical Government, which hath been lately adjudged Treaſon in the Cauſe of the Earl of *Strafford.*

The other Articles prove the firſt by his Opinions, Certificates, Judgments, by his denials of the benefit of our Laws, which have been read by your Lordſhips. No fundamental Law to the Subject is left; our Goods, our Lands, our Bodies, the peace of a good Conſcience, are by him given up to arbitrary tyrannical Government.

Nothing hath been omitted to make a Judge know the Laws, to make him juſt, or fear him from being evil: We have Inns of Court peculiar to that Study, Judges from thence only choſen; ſeldom any but what have been twenty years there; Honours and Revenues are given to Judges, encouragement to do well; this Judge had theſe: Judges are ſworn according to Law to ſerve the King, and His People; according to Law to counſel the King; and for not ſo doing, to be at His Will for Body, Lands and Goods; this Judge took that Oath; the Laws, the Judges Study, impoſe the greateſt puniſhment upon unjuſt Judges, they ſhew that theſe puniſhments have been inflicted, more could not be done to perſwade or fear a Judge.

His offences ſhew in him great ambition, yet he was moſt timerous of diſpleaſing the great in Power; he did not only forbear doing what he was ſworn to do, but was moſt active againſt our Laws, and in oppoſing and puniſhing any that did maintain them.

To have only received Bribes, (though they blind the Eyes, and though the deſire to get Money increaſeth with Age) that hainous crime in a Judge had been in compariſon with his offences, a tolerable vice; for from ſuch a Judge Juſtice is alſo to be had for Money. Ambition is violent, and ruines, whilſt covetouſneſs is making a bargain.

The words of his Opinion and Judgment are for the Kings *Power.* It is pleaſing to the nature of Man that others ſhould obey his Will; and well-framed diſpoſitions of Princes may eaſily be perſwaded their Power is unlimited, when they are alſo put in mind, that therefore they have more cauſe to do well, and for doing well are more renowned; for the moſt oppreſſive deſigns, (which we have ſuffered under) the pretences of His Majeſty have ever been the good of His Subjects; his is the ſin, that is to judge by the Laws, and knows the Laws are to the contrary, yet puts and confirms ſuch thoughts in his Prince.

He that incites another to arbitrary Government, when his ſelf-ends are thereby compaſſed, hates him for taking that Power he perſwaded him unto.

The Writs, thoſe *monſters of neceſſity* to provide Ships to avoid imminent danger that could not ſtay 40 days for the calling of a Parliament, were therefore to go out in *September*, to have Ships ready in *March*, This hath been adjudged by your Lordſhips to be deſtructive to the fundamental Laws of this Realm, and to the Subjects right of Propeſty and Liberty, *&c.* that I ſhall ſay but this concerning them; that this Judge publiſhed them to be inſe-

An. 1637. perable Flowers of the Crown. And that we have lived to ſee for five years together imminent danger, and thus to be prevented.

This Judge did adviſe to ſuch a Government, as future Kings here might exerciſe the higheſt tyranny, and the Subjects want the benefit of reſtraints, known to the moſt ſlaviſh Eaſtern Nations; where, if their Prince do unjuſtly, he hath hatred for it, and the dangers that follow that. This Judge will have that hatred to go to our good Laws: *No ſuch bondage as when the Laws of freedom are miſ-interpreted by Judges to make Men Slaves.*

What can be conſidered of in a Judge of Law, to give his opinion and advice to his Prince, how the Laws (the mutual Covenants of Kings and Subjects) are to be broken, but that his intentions are to have his Prince do ill, by making his evil Servants to ſtudy, and to be pleaſed with their wicked deſigns; becauſe they ſee means to put them in execution, by making them to perſwade their Prince, becauſe in imminent danger His Subjects Goods are at his Will, *that there is ſuch danger when there is not*, and that they have only ſome by-ends of their own.

This Judge will have the Law to be what to him ſeems reaſon; the reaſon limited to him to judge of, is what the Common-Law ſaith is ſo, what a Statute hath ſo enacted. For him to judge this or that is Law, elſe a miſchief ſhall follow, becauſe the Law in ſuch a thing is imperfect, therefore he will make a Law to ſupply it; or becauſe that the Law written in ſuch Particulars is againſt his reaſon, therefore his reaſons to be Law; then muſt follow, as often as a Judges reaſon changes, or Judges change, our Laws change alſo.

Our Liberties are in our Laws, where a Subject may read, or hear read; this is his, this he may do and be ſafe; and that thus the Judge ought to give Judgment, he is free. The exceſſive growths of Courts of Reaſon, Conſcience came from great and cunning Perſons; and though not the moſt ſudden, yet the moſt dangerous, and ſure ways to eat out our Laws, our Liberties.

Unlimited Power muſt be in ſome to make and repeal Laws to fit the diſpoſitions of times and perſons; Nature placeth this in common conſent only, and where all cannot conveniently meet, inſtructeth them to give their conſents to ſome they know or believe ſo well of, as to be bound to what they agree on. His Majeſty your Lordſhips, and the Commons, are thus met in Parliament; and ſo long as we are often reduced to this main foundation, our King and we ſhall proſper.

This Judge will not allow us our Knowledge, or any Reaſon, he will have our minds, our Souls Slaves: A Grand-Jury-man gave his Fellows true Information; they preſent an Innovation in the Church, are threatned and reviled for it; he that told this truth is charged (I ſhall uſe this Judges own words) to ſin in that, and that he made others forſwear themſelves; this Judge ſent him to the Common Gaol, where he is laid in Irons; and all this, becauſe he and they durſt meddle with Church matters. He is forced to tear the Preſentment in Pieces in open Court; our Laws provide for the peace of our Conſciences, many Acts of Parliament are for it, and the truſt by thoſe Acts ſet to Juries; this Judge well knew all this;

your

your Lordſhips have heard what he did to the Jury at *Hartford*; he would have us know no more Divinity than to obey what the great of the Clergy directed, no more Law than what he ſaid was ſo. 13 *Caroli.*

Judges in former times, (but only ſuch as were examples of puniſhment, as of injuſtice in Caſes of great and publick concernment) forbare proceedings, till the next Parliament. This neceſſitated the calling of Parliaments; this Judge had as many ſuch Cauſes before him, as ever any had; yet he never deſired the reſolution of Parliament in any one, for the ways he went, the neceſſity was never to have a Parliament; he would pull up that root of our ſafeties, and liberties, which whilſt we enjoy, the malice or injuſtice of all other Courts and Perſons can never ruine, and when near to ruine (as moſt near of late) this only ſure remedy will help us; nothing can ruine a Parliament, but it ſelf.

The evils which we have ſuffered under, they were committed by the Judges, or by them ought to have been, and might have been prevented.

This Judge aſſiſted in cauſing the miſeries we ſuffered in the *Star-Chamber*, and at the Council-Table, he denied the known Rights which he ought to have granted us to ſtop our grievances in the Eccleſiaſtical Courts, he was the cauſer of our ſufferings in other Courts.

The beſt lovers of their Laws and Liberties, the moſt honeſt ſuffer moſt by an unjuſt Judge, they moſt oppoſe his vices; diſhoneſt perſons find ſuch a Judge to fit their purpoſes, the Judge finds them for his, the Bond of iniquity confederates them.

He that will do no wrong, will ſuffer none which he can help: The Man that knows himſelf born free, will do his utmoſt to live ſo, and to leave freedom to his Poſterity; were he in ſlavery, when by outward geſture thought to be moſt delighted, were his mind then known, there would be found vexation, and his buſie thoughts employed to redeem himſelf and his Poſterity from thraldom. But to ſay, could this Judge intend to make himſelf and his own Poſterity Slaves? what he did was through error of Judgment only: No, my Lords, what his aymes and endeavours were, is apparent. To conſider Man in the general, we ſhall find in every Age he will be a Slave to ſome few, that many may be Slaves to him, he looks to himſelf only; this he would do, or forbear doing, to be great, to be rich, had he Children or Kindred, or had none. This highly unjuſt Judge, by continuing ſins, maintained his actions to preſerve himſelf, he knows to be found guilty in one of his offences, the penalty of the Law for it, therefore covers the offences committed with inventing and acting other.

For a Judge to be unjuſt, more hurts the publick than any other, he is not ſuſpected. What a Judge doth, is looked on as a thing that ought to be done. The moſt pernitious great Man, that by cunning hath got to himſelf the Heart and Tongue of his Prince, his ill Acts have dyed with him, if not taken up by others, and then they walk in darkneſs: No Man will juſtifie what he doth by ſaying ſuch a favourite did it; but the unjuſt Judgments of this Judge were given in Noon-day, were done in the face of the whole Kingdom, in the hearing of ſuch as might carry the news to all

An. 1637. all parts of the Realm, and was therefore done; his unjuſt Judgments were our Records. VVe have ſeen wicked great Men moſt craftily politique, they hated our Laws, yet not meeting with active Judges moulded to their purpoſes, they and their Acts have dyed, the Realm flouriſhed; but of late, others leſs politique meeting with moſt unjuſt Judges, every way as ill as they could wiſh them to be, then did the Kingdom faint, under the load of its miſery did long ſtruggle; now it's riſing, I aſſure my ſelf, your Lordſhips will aſſiſt to take off the burden.

If the deſigns of ſome would not have ſuch a Man to be at liberty, a VVarrant from ſome Lords of the Council would ſoon have laid him in Priſon, and given no cauſe; had he moved this Judge to be diſcharged or bailed, he could have obtained neither, if their ways would not have endured that Man to live, a Judge reviling the Priſoner, and the Council that moved for his diſcharge or bail, joyned with the hate of ſome great Man, might ſoon have moved a Goaler for unwholeſom rooms and lodging, and ill diet for his Priſoner, and they may ſoon take life away: Offenders in Priſons are looked after to be ſafe only, ſuch as are brought in by Power againſt Law, are abuſed.

Had a great Man deſired the Eſtates of others, the breach of a Proclamation might readily have been charged againſt them in *Star-Chamber*: but they, it may be, could have anſwered and cleared themſelves, and proved their Anſwer by Teſtimonies; had they been referred to this Judge, he would have expunged the one, ſuppreſſed the other. Then followed Fines to the value of their Eſtates, or more than Impriſonments of courſe till they paid ſuch Fines; your Lordſhips have heard what this Judge did to the *Soap-boilers*.

The Country-man followed the Plough, and to his thinking he was aſſured of his Right, Property, and Liberty, gave him ability to do it. He believed his Neighbour, his Land-lord, his King, could not take his Goods from him without his conſent. He knew the uſual Payments by Law, and in extraordinary Cauſes thought to have that care to chuſe ſuch for the Knights of his Shire, or for his Burgeſſes, as might be mindful of the cauſe of payment, and of his Eſtate.

This Country-man hath heard the Opinions and Judgment of this Judge, hath ſeen his Goods taken from him, without his, or his Knights of the Shire, or Burgeſſes conſent or advice. Theſe have made him, his Wife and Children to joyn in tears to wiſh they had never been born, they have made them think on many ways to keep ſafe that Eſtate which was yet left them, have made them deſire to ſell all their Goods, and hide the Money; but then he remembers this Judge, how that he ſhall be carried to Priſon, and remain there, if he pay not what pleaſe others to Aſſeſs him: Then they think idle perſons (the Drones and Moths of the Common-Wealth) to be a wiſe People, whilſt the Country-men expect, and can think of nothing, but being Beggers.

Where publick and enormous offences have been committed, eminent and notorious puniſhments muſt be; ſuch will make your Lordſhips Proceedings highly eſteemed, elſe there will be ſo many offenders, and none without danger can be puniſhed.

This

13 Caroli.

This Judge ſubverting our Laws, took away the Hearts of many; he ſubſcribed for the Kings Power, but ſo as he put him on taking his Subjects Goods, and of all other, ſuch ways be moſt dangerous; for we know His Majeſty is not the laſt that ſuffers, and is not the King worth many thouſands?

The place of this Judge was to have given and preſerved to the King the Hearts of His Subjects, the due execution of the Laws had done this; and when ſuch notice is taken of a Prince, none will conſpire againſt him, who cannot feign to themſelves ſafety before or after any Fact committed, Forreign Enemies will not invade His Kingdoms.

Thus hath His Majeſty now got our Hearts, and will for ever have them. This Judge is to anſwer for what His Majeſty, and for what we have ſuffered.

I am commanded by the Houſe of Commons to deſire of your Lordſhips, that the Proceedings againſt Sir *Robert Berkeley* Knight, one of the Juſtices of His Majeſties Court of *Kings-Bench*, may be put in as ſpeedy a way of Tryal, as the Courſe of Parliament will allow.

Alſo Mr. *Hollis*, at the ſame time, made a Speech in the behalf of Sir *Randolph Crew*, ſometimes Lord Chief-Juſtice of the *Kings-Bench*, but removed, his opinion was againſt Loan-Money; but more of this hereafter.

Articles

An. 1637.

Articles of Impeachment of Sir Robert Berkeley *Knight, one of the Juſtices of the Court of* Kings-Bench; *by the Commons in this preſent Parliament aſſembled, in their own Name, and in the Name of all the Commons of* England, *in maintenance of their Accuſation, whereby he ſtandeth charged with High Treaſon, and other great miſdemeanours.*

Imprimis, THat the ſaid Sir *Robert Berkeley*, then being one of the Juſtices of the ſaid Court of *Kings-Bench*, hath traiterouſly and wickedly endeavoured to ſubvert the fundamental Laws, and eſtabliſhed Government of the Realm of *England*; and inſtead thereof, to introduce an Arbitrary and Tyrannical Government againſt Law, which he hath declared by traiterous and wicked words, opinions, judgments, practiſes, and actions appearing in the ſeveral Articles enſuing.

2. Whereas by the Statute made in the 25*th* year of the Reign of King *Henry* the 8. Prices of Victuals are appointed to be rated in ſuch manner, as in the ſaid Statute is declared: But it is manifeſt by the ſaid Statute, Corn is none of the Victuals thereby intended. Nevertheleſs ſome ill-affected Perſons endeavouring to bring a Charge upon the Subjects contrary to Law, did ſurmiſe, that the Prices of Corn might be rated, and ſet according to the direction of that Statute; and thereupon great gain might be raiſed to His Majeſty by Licenſes and Diſpenſations for ſelling Corn at other Prices: And a Command from His Majeſty being procured to the Judges, and ſent to them by *William Noy* Eſq; His Majeſties then Attorney-General, to deliver their Opinions touching the Queſtion, whether Corn was ſuch Victuals as was intended to have the Price rated within the ſaid Statute: In anſwer to which demand, the ſaid Sir *Robert Berkeley* then being one of His Majeſties Juſtices of the Court of *Kings-Bench*, in furtherance of the ſaid unlawful Charge, endeavoured to be impoſed, as aforeſaid, the thirtieth day of *November*, in the eighth year of His now Majeſties Reign, did deliver his Opinion, That Corn was ſuch Victual as was intended to have the Price rated within the ſaid Statute; which ſaid opinion was contrary to Law, and to the plain ſenſe and meaning of the ſaid Statute, and contrary to his own knowledge, and was given and delivered by him, with a purpoſe and intention, that the ſaid unlawful Charge might be impoſed upon the Subject.

3. That

13 *Caroli.*

3. That an Information being preferred in the Court of *Star-Chamber* by the ſaid *William Noy*, His Majeſties then Attorney-General, againſt *John Overman*, and fifteen other Soap-makers, Defendants, charging them with ſeveral pretended offences, contrary to divers Letters Patents, and Proclamations, touching the making and uttering Soap, and uſing the Trade of Soap-makers, and other offences in the ſaid Information mentioned; whereunto the Defendants did plead, and demurr as to part, and anſwer to other part of the ſaid Information: And the ſaid Plea and Demurrer being over-ruled, for that the Particulars therein inſiſted upon, would appear more fully after anſwer and proof; therefore the Defendants were ordered to anſwer without prejudice, and were to be admitted to ſuch exceptions to the ſaid Information and advantages of the matter of the Plea and Demurrer upon the hearing, as ſhall be material; and accordingly the Defendants did put in their Anſwers, and ſet forth ſeveral Acts of Parliament, Letters Patents, Charters, Cuſtoms, and Acts of Common-Councel of the City of *London*, and other matters materially conducing to their Defence; and, in concluſion, pleaded not guilty. The ſaid Sir *Robert Berkely* then being one of the Juſtices of the Court of *Kings-Bench*, upon the 30*th* day of *March*, in the eighth year of His Majeſties Reign, upon an Order of reference to him and others, by the ſaid Court of *Star-Chamber*, to conſider of the impertinency of the ſaid Anſwers, did certifie the ſaid Court of *Star-Chamber*, That the whole Anſwers, excepting the four words, and ten laſt lines, ſhould be expunged; leaving thereby no more ſubſtance of the ſaid Anſwers, than the Plea of not guilty. And after, upon a reference to him and others, by Order of the ſaid Court, of the impertinency of the Interrogatories, and Depoſitions of Witneſſes taken on the Defendants part, in the ſame Caſe of Sir *Robert Berkeley*, upon the ſecond day of *May*, in the eighth year of His now Majeſties Reign, certified, That nine and thirty of the ſaid Interrogatories, and the Depoſitions upon them taken, ſhould be ſuppreſſed with Anſwers, (except as aforeſaid) and Depoſitions, although the ſame did contain the ſaid Defendants moſt material defence. Yet were expunged and ſuppreſſed according to the ſaid Certificates; both which ſaid Certificates were contrary to Law and Juſtice, and contrary to his the ſaid Sir *Robert Berkleys* own knowledge, and contrary to the ſaid former Order, whereby the advantages were ſaved to the Defendants, as aforeſaid: And by reaſon thereof the ſaid *John Overman*, and the ſaid other fifteen Defendants, were ſentenced in the ſaid Court of *Star-Chamber* to be committed Priſoners to the *Fleet*, and diſabled from uſing their Trade of Soap-makers; and one of them fined in 1500 *l.* two of them in 1000 *l.* a-piece, four of them in 1000 Marks a-piece; which Fines were eſtreated into the *Exchequer* without any mitigation: And the ſaid Defendants, according to the ſaid Sentence, were impriſoned, and deprived of their Trade and Livelihood, tending to the utter ruine of the ſaid Defendants, and to the overthrow of free Trade, and contrary to the liberty of the Subject.

An. 1637.

4. That he the ſaid Sir *Robert Berkeley*, then being one of the Juſtices of the *Kings-Bench*, and having taken an Oath for the due adminiſtration of Juſtice, according to the Laws and Statutes of this Realm, to His Majeſties Liege-People, on or about the laſt of *December* ſubſcribed an opinion *in hæc verba.* I am of opinion, that as where the benefit doth more particularly redound to the good of the Ports or Maritime Parts, (as in Caſe of Piracy or Depredations upon the Seas) there the charge hath been, and may be lawfully impoſed upon them, according to Preſidents of former times; ſo where the ſafety and good of the Kingdom in general is concerned, and the whole Kingdom in danger, (of which His Majeſty is the only Judge) there the charge of the defence ought to be born by all the Realm in general: This I hold agreeable both to Law and Reaſon.

5. That he the ſaid Sir *Robert Berkeley*, then being one of the Juſtices of our Court of *Kings-Bench*, and duly ſworn as aforeſaid; in *Feb.* 1636. ſubſcribed an extra-judicial opinion, in anſwer to Queſtions in a Letter from His Majeſty *in hæc verba.*

Charles Rex.

'WHen the good and ſafety of the Kingdom in general is concerned, and the whole Kingdom in danger; whether 'may not the King, by Writ under the Great Seal of *England*, com-'mand all the Subjects of this Kingdom at their charge to pro-'vide and furniſh ſuch number of Ships, with Men, Victuals and 'Munition; and for ſuch time as he ſhall think fit, for the defence 'and ſafeguard of the Kingdom, from ſuch danger and peril? 'and by Law compel the doing thereof in caſe of refuſal, or refra-'ctorineſs? and whether in ſuch caſe is not the King ſole Judge, 'both of the danger, and when and how the ſame is to be prevent-'ed and avoided? *C. R.*

'May it pleaſe your moſt excellent Majeſty, we have, accor-'ding to your Majeſties command, ſeverally every Man by himſelf, 'and all of us together, taken into ſerious conſideration, the Caſe 'and Queſtion Signed by your Majeſty, and incloſed in your Royal 'Letter; And we are of opinion, that when the good and ſafety of 'the Kingdom in general is concerned, and the whole Kingdom in 'danger, your Majeſty may, by Writ under the Great Seal of *Eng-'land*, command all your Subjects of this your Kingdom, at their 'charge to provide and furniſh ſuch number of Ships, with Men, 'Victuals, and Munition, and for ſuch time as your Majeſty ſhall 'think fit for the defence and ſafeguard of the Kingdom from ſuch 'danger and peril; and that by Law your Majeſty may compel the 'doing thereof in caſe of refuſal, and refractorineſs: And we are 'alſo of opinion, that in ſuch caſe your Majeſty is the ſole Judge, 'both of the danger, and when and how the ſame is to be prevent-'ed and avoided. *John Brampſton, John Finch, Humphrey Daven-'port, John Denham, Richard Hutton, William Jones, George Crooke, 'Thomas Trevor, George Vernon, Robert Barkeley, Francis Crawley, 'Richard Weſton.*

6. That

13 *Caroli.*

6. That he the ſaid Sir *Robert Berkeley*, then being one of the Juſtices of the Court of *Kings-Bench*, and duly ſworn as aforeſaid, did on the deliver his opinion in the *Exchequer-Chamber* againſt *John Hampden* Eſq; in the Caſe of Ship-Money, That he the ſaid *John Hampden*, upon the matter and ſubſtance of the Caſe, was chargeable with the Money then in queſtion; a Copy of which Proceeding and Judgment the Commons of this preſent Parliament have delivered to your Lordſhips.

7. That he the ſaid Sir *Robert Berkeley*, then being one of the Juſtices of the Court of *Kings-Bench*, and one of the Juſtices of *Aſſize for the County of* York, did at the Aſſizes held at *York*, in *Lent* 1636. deliver his Charge to the Grand Jury, *That it was a lawful and inſeperable Flower of the Crown for the King to command, not only the Maritime Counties, but alſo thoſe that were Inland, to find Ships for the defence of the Kingdom. And then likewiſe falſely and malitiouſly affirmed*, That it was not his ſingle Judgment, but the Judgment of all his Brethren, witneſſed by their Subſcriptions. And then alſo ſaid, That there was a rumor, that ſome of his Brethren that had ſubſcribed, were of a contrary Judgment; but it was a baſe and unworthy thing, for any to give his Hand contrary to his Heart; and then wiſhed for his own part, that his Hand might rot from his Arm, that was guilty of any ſuch crime; when as he knew that Mr. Juſtice *Hutton*, and Mr. Juſtice *Crooke*, who had ſubſcribed, were of a contrary opinion, and was preſent when they were perſwaded to ſubſcribe; and did ſubſcribe for conformity, only becauſe the major number of the Judges had ſubſcribed. And he the ſaid Sir *Robert Berkeley* then alſo ſaid, That in ſome Caſes the Judges were above an Act of Parliament; which ſaid falſe malitious words were uttered, as aforeſaid, with intent and purpoſe to countenance and maintain the ſaid unjuſt opinions, and to terrifie His Majeſties Subjects that ſhould refuſe to pay Ship-Money, or ſeek any remedy by Law, againſt the ſaid unjuſt and illegal Taxation.

8. That whereas *Richard Chambers* Merchant, having commenced a Suit for Treſpaſs, and falſe Impriſonment, againſt Sir *Edward Bromfeild* Knight, for impriſoning him the ſaid *Chambers*, for *refuſing to pay Ship-Money*, in the time that the ſaid Sir *Edward Bromfeild* was Lord Major of the City of *London*; in which Suit the ſaid Sir *Edward Bromfeild* did make a ſpecial Juſtification: The ſaid Sir *Robert Berkeley* then being one of the Juſtices of the Court of *Kings-Bench*, in *Trinity* Term laſt, then ſitting on the Bench in the ſaid Court, upon debate of the ſaid Caſe between the ſaid *Chambers* and Sir *Edward Bromfeild*, *ſaid openly in the Court*, That *there was a Rule of Law*, and *a Rule of Government*: And that *many things which might not be done by the Rule of Law, might be done by the Rule of Government*: And would not *ſuffer* the point of *Legality of Ship-Money to be argued* by *Chambers* his Councel; all which Opinions, Declarations,

An. 1637. Words, and Speeches, contained in the third, fourth, fifth, ſixth, ſeventh, and eighth Articles, are deſtructive to the fundamental Laws of this Realm, the Subjects right of Property, and contrary to former reſolutions in Parliament, and to the Petition of Right; which reſolution in Parliament, and Petition of Right, were well known to him, and reſolved, and enacted, when he was the Kings Serjeant at Law, and attendant in the Lords Houſe of Parliament.

9. That the ſaid Sir *Robert Berkeley*, then being one of the Judges of the Court of *Kings-Bench*, and being in Commiſſion of the Peace, and duly ſworn to execute the Office of a Juſtice of the Peace in the County of *Hertford*, on or about the *7th* of *January* 1638. at which time this general Seſſions of the Peace for the ſaid County were there holden: The ſaid Sir *Robert Berkeley*, then and there ſitting on the Bench, did *revile and threaten the Grand Jury* returned to ſerve at the ſaid Seſſions, for preſenting the removal of the Communion-Table in *All-Saints* Church in *Hertford* aforeſaid, out of the [illegible] where it anciently and uſually ſtood, and ſetting it Altar-[illegible] againſt the Laws of this Realm, in that Caſe made and provided, *as an Innovation in matters concerning the Church*, the ſaid Grand Jury having delivered to them in charge at the ſaid Seſſions, by Mr. Serjeant *Atkins*, a Juſtice of the Peace for the ſaid County of *Hertford*, that by the Oath they had taken, they were bound to Preſent all Innovations concerning Church matters. And he the ſaid Sir *Robert Berkeley compelled the Fore-man of the Jury to tell him who gave him any ſuch Information*; and thereby knowing it to be one *Henry Brown*, *one of the ſaid Grand Jury*, he asked the ſaid *Brown*, how he durſt meddle with Church matters, who affirming, that in the ſaid Charge, from Mr. Serjeant *Atkins*, the ſaid Jury was charged to do, he the ſaid Sir *Robert Berkeley* told the ſaid *Brown*, He ſhould therefore find Sureties for his *good behaviour*; and that he the ſaid Sir *Robert Berkeley* would *ſet a great Fine on his Head*, to make him an example to others; and thereupon the ſaid *Brown* offered ſufficient Bail; but he the ſaid Sir *Robert Berkeley*, being incenſed againſt him, refuſed the ſaid Bail, and committed the ſaid *Brown to Priſon*, where he lay in Irons till the next morning, and uſed to the ſaid *Brown*, and the reſt of the Jurors, many other *reviling and terrifying Speeches*; and ſaid, he knew no Law for the ſaid Preſentment; and told the ſaid *Brown*, That he had ſinned in the ſaid Preſentment: And he *compelled the ſaid Grand-Jurors to ſay, they were ſorry for what they had done in that Preſentment*, and did bid them to trample the ſaid Preſentment under their feet; and cauſed *Brown* to *tear the ſaid Preſentment* in his ſight. And he the ſaid Sir *Robert Berkeley*, when as *John Houland*, and *Ralph Pemberton*, late Majors of St. *Albons*, came to deſire his opinion on ſeveral Indictments againſt *John Brown*, Parſon of St. *Albons*, and *Anthony Smith*, Vicar of St. *Peters* in St. *Albons*, at the Quarter Seſſions held at the ſaid Town of St. *Albons*, on the *24th* of *June* 1639. for the *Removal of the Communion-Table out of the*

13 Caroli.

the *uſual place*, and not admInIſtring the Sacrament according to Law in that caſe provided : He the ſaid Sir *Robert Berkeley* then told them that ſuch an Indictment was before him at *Hertford*, and that he quaſhed the ſame, and impriſoned the Promoters; by which threatning and reviling ſpeeches, unjuſt Actions and Declarations, he ſo terrified the Jurors in thoſe parts, that they durſt not preſent any Innovations in the Church matters, to their great grief and trouble of their conſciences.

And whereas ſeveral Indictments were preferred againſt *Matthew Brook*, Parſon of *Yarmouth*, by *John Ingram* and *John Carter*, for refuſing ſeveral times to adminiſter the Sacrament of the Lords Supper to them without any lawful cauſe, at the Aſſizes held at *Norwich* in the year 1633. he the ſaid Sir *Robert Berkley*, then being one of the Judges of the Aſſize, proceeded then to the Tryal on the ſaid Indictments; where the matter in iſſue being, That the ſaid *Brooks* refuſed to adminiſter the ſaid Sacrament, becauſe the ſaid *Ingram* and *Carter* would not receive Tickets with their Sirnames before their Chriſtian names; which was a courſe never uſed amongſt them, but by the ſaid *Brook*. And the ſaid Sir *Robert Berkley* did then much diſcourage the ſaid *Ingrams* Councel, and over-rule the Cauſe for matter of Law, ſo as the Jury never went from the Bar, but there found for the ſaid *Brook* : And the ſaid Sir *R. Berkley* bound the ſaid *Ingram* to the good behaviour for the proſecuting the ſaid Indictments, and ordered him to pay coſts to the ſaid *Brook* for wrongfully inditing him. And whereas the ſaid *Carter*, not expecting the Tryal at the ſame Aſſizes he preferred his Indictment, was then abſent; whereupon the ſaid Sir *Robert Berkeley* did cauſe to be entred upon the ſaid Indictment a *Vacat, quia non ſufficiens in lege*, and ordered an Attachment againſt the ſaid *Carter*, which ſaid proceedings againſt the ſaid *Ingram* and *Carter*, by the ſaid Sir *Robert Berkeley*, were contrary to Law and Juſtice, and to his own Knowledge.

10. That the ſaid Sir *Robert Berkeley*, being one of the Juſtices of the Court of Kings-Bench, and duly ſworn as aforeſaid in *Trinity* Term 1637, deferred to diſcharge or bayl *Alexander Jennings* Priſoner in the *Fleet*, brought by *Habeas Corpus* to the Bar of the ſaid Court; the return of his Commitment being, that he was committed by two ſeveral Warrants from the Lords of the Council, dated the 5th of *November* 1636. The firſt being onely read in Court expreſſing no cauſe, the other for not paying Meſſengers Fees, and until he ſhould bring a Certificate that he had paid his Aſſeſsment for Ship-money in the County of *Bucks*, but remitted him : And in *Michaelmas* Term after, the ſaid *Jennings* being brought by another *Habeas Corpus* before him as aforeſaid, and the ſame returned; yet he the ſaid Sir *Robert Berkeley* refuſed to diſcharge or bayl him, but remitted him. And in *Eaſter* Term, after ſeveral rules were given for his Majeſties Councel, to ſhew cauſe why the ſaid *Jennings* ſhould not be bayled, a fourth Rule was made for the ſaid *Jennings* to let his Majeſties Attorney General have notice thereof, and notice was given accordingly; and the ſaid *Jennings* by another

Habeas

An. 1637. *Habeas Corpus*, brought to the Bar in *Trinity* Term after, and the ſame return with this addition, of a new Commitment of the 4th of *May*, ſuggeſting the ſaid *Jennings* had uſed divers ſcandalous words in derogation and diſparagement of his Majeſties Government: He the ſaid *Jennings* after ſeveral Rules in the end of the ſaid Trinity Term, was again remitted to Priſon. And he the ſaid Sir *Robert Berkley* did on the fifth of *June* laſt, defer to grant His Majeſties Writs of *Habeas Corpus* for *William Pargiter* and *Samuel Danvers* Eſquires, Priſoners in the Gatehouſe, and in the Fleet; and afterwards having granted the ſaid Writ of *Habeas Corpus*, the ſaid *Pargiter* and *Danvers* were on the 18*th* of *June* laſt brought to the Bar of the ſaid Court, where the returns of their Commitments were ſeveral Warrants from the Lords of the Council not expreſſing any Cauſe; yet he the ſaid Sir *Robert Berkley*, then ſitting in the ſaid Court, *deferred to bail* the ſaid *Pargiter* and *Danvers*, and the 18*th* of *June* laſt, *made a Rule for a new Return to be received*, which were returned the 25*th* of *June* laſt, *in hæc verba*.

'Whereas His Majeſty finding that His Subjects of *Scotland* 'have in Rebellious and Hoſtile manner aſſembled themſelves to-'gether, and intend not only to ſhake off their obedience unto 'His Majeſty, but alſo as enemies to invade and infeſt this His 'Kingdom of *England*, to the danger of His Royal Perſon, &c.

For prevention whereof His Majeſty hath by the advice of His Council-board, given ſpecial commandment to all the ſaid Lord Lieutenants of the Counties of this Realm, appointed for their Randezvous in their ſeveral and reſpective Counties, there to be conducted and drawn together into a Body for this Service. And whereas His Majeſty according to the Laws and Statutes of this Realm and the conſtant cuſtom of His Predeceſſors Kings and Queens of this Realm, hath Power for the defence of this Kingdom, and reſiſting the force of the Enemies thereof, to grant forth Commiſſions under His Great Seal to ſuch fit perſons as he ſhall make choice of, to array and arm the Subjects of this Kingdom, and to compel thoſe who are of able Bodys and able Eſtates, to arm themſelves; and ſuch as ſhould not be of able bodies, but of ability in Eſtate, to aſſeſs them according to their Eſtates to contribute towards the Charge of arraying others, being able of body, and not able in Eſtate to arm themſelves; and ſuch Perſons as ſhould be contrariant to Commit to Priſon, there to remain untill the King ſhould take further order therein.

And whereas the Earl of *Exeter*, by vertue of His Majeſties Commiſſion to him directed, for the arraying and arming of a certain number of Perſons in the County of *Northampton*, hath aſſeſt *William Pargiter*, being a man unfit of body for that Service, but being of Eſtate and Ability to contribute amongſt others, to pay the ſum of five ſhillings towards the arraying and arming of others of able bodies, and wanting ability to array and arm themſelves.

And

13 *Caroli.*

And whereas we have received Information from the ſaid Earl, that the ſaid *William Pargiter* hath not only in a wilful diſobedient manner refuſed to pay the ſaid money aſſeſſed upon him towards ſo important a ſervice, to the diſturbance and hindrance of the neceſſary defence of this Kingdom; but alſo by his ill example hath miſled many others; and, as we have juſt cauſe to believe hath practized to ſeduce others from that ready obedience which they owe, and would otherwiſe have yeilded to His Majeſties juſt Command, for the publick defence of his Perſon and Kingdom, which we purpoſe with all convenient ſpeed to enquire further of and examine.

Theſe are therefore to Will and Require you, to take into your cuſtody the perſons of the ſaid *William Pargiter* and *Samuel Danvers*, and them ſafely to keep Priſoners till further order from this Board, or until by due courſe of Law they ſhall be delivered; yet he the ſaid Sir *Robert Berkley* being deſired to bail the ſaid *Pargiter* and *Danvers*, remitted them, where they remained Priſoners till the ninth of *November* laſt, or thereabouts; although the ſaid *Jennings*, *Pargiter* and *Danvers*, on all and every the ſaid returns were clearly bailable by Law; and the Councel of the ſaid *Jennings*, *Pargiter* and *Danvers* offered in Court very ſufficient bail. And he the ſaid Sir *Robert Berkley*, being one of the Juſtices of the Court of Kings Bench, denied to grant His Majeſties Writs of *Habeas Corpus* to very many others His Majeſties Subjects, and when he had granted the ſaid Writs of *Habeas Corpus* to very many others His Majeſties Subjects, and on the return no cauſe appeared, or ſuch only as was clearly bailed by Law; yet he remanded them, where they remained Priſoners very long: which ſaid deferring to grant the ſaid Writs of *Habeas Corpus*, and refuſals and delaies to diſcharge Priſoners, or to ſuffer them to be bailed, contained in this Article are deſtructive to the fundamental Laws of this Realm, and contrary to former Reſolutions in Parliament, and to the Petition of Right, which ſaid reſolutions and Petitions of Right were well known to him the ſaid Sir *Robert Berkley*, and were reſolved on and enacted when he was the Kings Sergeant at Law, and *Attendant in the Lords Houſe* of Parliament.

11. That whereas there was a Cauſe depending in the Court-Chriſtian at *Norwich*, between *Samuel Booty* Clerk, and *Collard* for two ſhillings in the pound, for Tithes for Rents and Houſes in *Norwich*, and the ſaid *Collard* moved by His Councel in the Court of Kings Bench for a Prohibition to ſtay proceedings in the Court-Chriſtian at *Norwich*, and delivered into the ſaid Court of Kings Bench his Suggeſtions, that the ſaid Cauſe in the ſaid Court-Chriſtian was only for Tithes for Rents of Houſes in *Norwich*, which was determinable by the Common-Law only; yet he the ſaid Sir *Robert Berkley*, being one of the Juſtices of the ſaid Court of Kings Bench, and ſitting in the ſaid Court, deferred to grant a Prohibition to the ſaid Court-Chriſtian in the ſaid cauſe, although the Councel did move in the ſaid Court many ſeveral times, and ſeveral Terms for a Prohibition. And he the ſaid Sir *Robert Berkley* deferred to grant His Majeſties Writ of Prohibition to ſeveral other Courts, on the motions of divers others

of

of His Majesties Subjects, where the same by the Laws of this Realm ought to have been granted, contrary to the Laws of this Realm and his own knowledge.

All which Words, Opinions, and Actions were so spoken and done by him the said Sir *Robert Berkley* traiterously and wickedly to alienate the hearts of His Majesties liege people from His Majestie, and to set a division betwixt them, and to subvert the Fundamental Laws and Established Government of His Majesties Realm of *England*; for which they do impeach him the said Sir *Robert Berkley* one of the Justices of the Court of Kings Bench of High-treason against our Sovereign Lord the King His Crown and Dignity, and of the misdemeanors above mentioned.

And the said Commons by protestation, saving to themselves only the liberty of exhibiting at any time hereafter any other accusation or impeachment against the said Sir *Robert Berkley*, and also of replying to the Answer, that he the said Sir *Robert Berkley* shall make to the said Articles, or any of them, or of offering proof of the premises, or any other impeachments or accusations that shall be exhibited by them, as the case shall according to the course of Parliaments require, do pray that the said Sir *Robert Berkley*, one of the Justices of the Court of Kings Bench, may be put to answer to all and every the premises; and that such Proceedings, Examinations, Trials, Judgements and Executions may be upon every of them had and used as is agreeable to Law and Justice.

The Kings pleasure declared concerning the Surveying and Marking of Iron, and Surveying Woods in the making thereof.

'WHereas the Kings most Noble Progenitors and Predecessors, Kings and Queens of this Realm, duly considering 'the necessary and important use of the Woods and Timber of this 'Kingdom have taken into their constant care to preserve the 'same from waste and destruction; and to that end divers good 'and wholesom Laws and Statutes have been made, nevertheless 'by a common neglect of the said Laws, and by an unlawful liber-'ty, which many of the Kings Subjects have taken, there hath 'been a spoil of Timber and Woods in the Kingdom, by convert-'ing the same into Coals for the making of Iron; so that it may 'be feared, that within few years, unless a speedy course be ta-'ken to prevent it, there will follow such a want of Wood and 'Timber, as cannot be supplied by any future providence; and 'which together with the frequent transportation of Iron and 'Iron-metal unlawfully, without License, hath already produced a 'great scarcity of Timber, Wood and Iron: for a remedy where-'of, and for restraint of Transportation of Iron, and for Reforma-'tion of sundry secret Deceits and Abuses now used and practised 'in the making of Iron, and in the vent and sale thereof in Bars 'by intermingling the worser sort with the better; His Majesty 'by His Letters Patents under the Great Seal, dated the 14*th* of '*October* last, did erect an Office to be for ever continued, and 'did thereby appoint *John Cupper* and *Grimbald Pauncefoot* Sur-'veyor or Surveyors of all Iron-works, Furnaces and Forges with-'in *England* and *Wales*, and of all Woods to be used or employed 'thereat; and for the Surveying and Marking of Iron with divers 'Stamps and Marks; for the doing whereof they are allowed by

'the

13 *Caroli.*

'the ſaid Letters Patents, to have a moderate fee at the time of 'their Surveying and Marking. And notwithſtanding ſome com- 'plaint hath been made of this matter before the King and Coun- 'cil, yet it is thought fit and neceſſary, that the ſaid Patent be put 'in execution; and therefore the King doth Command, that no Per- 'ſon whatſoever ſhall employ any Woods to be converted into Coals 'for the making of Iron, or ſhall tranſport any Iron or Iron Metal. And 'that no Iron-Maſter, Owner or Farmer of Iron-works ſhall put to 'ſale any ſort of Iron, nor ſhall any Merchant, Trader or Dealer in 'Iron remove the ſame from the Iron-Works, Furnaces, or Forges 'before the ſaid Iron ſhall be firſt Surveyed and Marked by the Kings 'Officers, or their Deputies. And all Perſons are required to per- 'mit the ſaid Officers, or their Deputies to enter into the Iron- 'Works, Warehouſes, &c. to Survey and Mark the ſaid Iron. The 'King doth further declare, that his ſaid Officers, or their Depu- 'ties may enter into any Woods, or Wood-grounds, wherein any 'Woods are, or ſhall be felled, to be converted into Coals, for 'the Making of Iron, or Iron-Metal, and there to Survey the 'ſame.

An. 1637.

Titles of Proclamations for the Year 1637.

By the King,

Weſtminſter *the* 26 *day of* March. — A *Proclamation to reſtrain the making or having* Keys for His Majeſties Houſes, *Gardens, or Parks, without eſpecial Warrant.*

Whitehall *the laſt day of* April. — *A Proclamation againſt the diſorderly* Tranſporting *His Majeſties Subjects to the* Plantations *within the Parts of* America.

Whitehall *the* 14*th day of* May. — *A Proclamation for calling in a Book Intituled an* Introduction to a Devout Life, *and that the ſame be* publickly burnt.

Whitehall *the* 15*th day of* May. — *A Proclamation touching the Manufactures of* Playing-Cards, *and* Dice.

Greenwich *the* 9*th day of* July. — *A Proclamation touching* Common Maulters *and* Brewers.

Oatlands *the* 16*th day of* July. — *A Proclamation againſt* falſe packing of Butter, *and other deceits and miſdemeanours concerning* Butter-Caske, *diſcovered ſince the publiſhing of a former Proclamation.*

Oatlands *the* 23*d day of* July. — *A Proclamation for putting off this next* Bartholomew-Fair *in* Smithfeild, *and our* Lady-Fair *in* Southwark.

Oatlands *the* 29*th day of* July. — *A Proclamation for the Surveying, and making of* Iron, *and Survey of* Woods *to be uſed in the making thereof.*

Lindhurſt *the* 18*th day of* Auguſt. — *A Proclamation declaring, that the Proceedings of His Majeſties* Eccleſiaſtical Courts *and Miniſters, are according to the Laws of the Realm.*

Lindhurſt *the* 21*ſt day of* Auguſt. — *A Proclamation for Putting off this next* Sturbridge-Fair.

Oatlands *the* 3*d day of* September. — *A Proclamation for putting off the Healing of the Diſeaſe called the* Kings-Evil *at* Michaelmas *Terme.*

Whitehall *the* 19*th day of* November. — *A Proclamation for Reſtraining the uſe of* Wine-Casks, *by Brewers, and Sellers of Beer and Ale.*

Weſtminſter *the* 22*d day of* November. — *A Proclamation concerning the* Tradeſmen *and* Artificers within three Miles of the City of *London, not yet admitted in the* New-Corporation.

Whitehall *the* 20*th day of* December. — *A Proclamation reſtraining the withdrawing His Majeſties Subjects from the Church of* England, *and giving ſcandal in* reſorting to Maſſes.

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A Proclamation touching the Corporation of Soap-makers *of* London. — Whitehall *the 28th day of* December.

A Proclamation declaring the ſeaſonable Times when Warrants for Veniſon *in the Kings Foreſts, Chaces, or Parks, are to be ſerved.* — Whitehall *the 17th day of* January.

A Proclamation concerning certain kinds for the ſweet and ſpeedy drying of Malt *and Hops, at a ſmall Charge.* — Whitehall *the 8th day of* February.

A Proclamation concerning the carrying, and re-carrying of Letters, *as well within His Majeſties Realms and Dominions, as into, and from* Forreign Parts. — Whitehall *the 11th day of* February.

A Proclamation for the Prizing of Wines. — Whitehall *the 11th day of* February.

A Proclamation concerning our Iron-Oar, Iron-Mines, *and Cinders within Our Foreſt of* Dean. — Newmarket *the 4th day of* March.

A Proclamation concerning Tobacco. — Whitehall *the 14th day of* March.

Hiſtorical Collections

For the Year 1638.

The Arch-Biſhop of Canterbury's *Diary.*

April 29.

THe Tumults in *Scotland* about the *Service Book* offered to be brought in, began *July* 23. 1637. and continued increaſing by fits, and hath now brought that Kingdom in danger. No queſtion but there is a great concurrence between them and the Puritan Party here in *England*; there was great aim there to deſtroy me in the King's Opinion, *&c.*

May 26. Saturday, *James* Lord Marqueſs *Hamilton* ſet forth, as the King's Commiſſioner, to appeaſe the Tumults in *Scotland.* God proſper him for God and the King.

June, My Viſitation then began of *Merton* College in *Oxford*, by my Viſitors, was adjourned to my own hearing, again upon *October* 2.

October 2, 3, 4. I ſat upon this Buſineſs theſe three days, and adjourned it till *July* 1. *Inter horas primam & tertiam, Lambeth.* The Warden appeared very foul.

October 19. Newswas brought to us, as we ſat in the *Star-Chamber*, that the Queen-Mother of *France* was landed at *Harwich*; many and great apprehenſions upon this Buſineſs.

October 31. The Queen came into *London*, and ſo to St. *James's.*

November 13. The Agreement between me and *A. S. &c.*

November 21. Wedneſday, The General Aſſembly in *Scotland* began to ſit.

November 29. *Thurſday*; The Proclamation iſſued out for diſſolving of the Great Aſſembly in *Scotland*, under pain of *Treaſon.*

December 20. They ſat notwithſtanding, and made many ſtrange Acts till *December* 20, which was *Thurſday*, and then they roſe; but have indicted another Aſſembly againſt *July* next.

February 10. My Book againſt *Fiſher* the Jeſuit was Printed, and this day, being *Sunday*, I delivered a Copy to his Majeſty.

Tueſday, *Feb.* 21. That Night I dreamed that K. *C.* was to be married to a Miniſter's Widow, and that I was called upon to do it: No *Service Book* could be found; and in my own Book, which I had, I could not find the Order for Marriage.

An. 1638.

At *Whitehall*, April 6.

Preſent,

The King's moſt Excellent Majeſty.

Lord Arch-Bp. of *Canterbury*,	Earl of *Salisbury*,
Lord *Keeper*,	Lord *Cottington*,
Lord *Treaſurer*,	Lord *Newburgh*,
Lord *Privy-Seal*,	Mr. *Treaſurer*,
Lord Duke of *Lenox*,	Mr. *Vice-Chamberlain*,
Earl *Marſhal*,	Mr. Secretary *Cook*,
Earl of *Northumberland*,	Mr. Secretary *Windebank*.

New-England.

'HIs Majeſty and the Board taking into conſideration the frequent 'reſort to *New-England*, of divers Perſons ill-affected to the 'Religion eſtabliſhed in the Church of *England*, and to the good and 'peaceable Government of this State. However, upon the humble 'Petition of the Merchants, Paſſengers, and Owners of Ships now 'bound for *New-England*, and upon the Reaſons by them repreſented 'to the Board, His Majeſty was graciouſly pleaſed at this time to free 'them from a late Reſtraint, and to ſet them at liberty to proceed on 'in their intended Voyage. Nevertheleſs His Majeſty well knowing 'the factious diſpoſition of the People (for a great part of them) in 'that Plantation, and how unfit and unworthy they are of any Support 'or Countenance from hence, in reſpect of the great Diſorders and 'want of Government amongſt them; whereof ſundry and great 'Complaints have bin preſented to the Board, and made appear to be 'true, by thoſe that being well-affected, both for Religion and Go-'vernment, have ſuffered much loſs in their Eſtates by the unruly Fa-'ctious Party, did think fit and Order, That Mr. Attorney General 'ſhall forthwith draw up a Proclamation, expreſſing his Majeſty's 'Royal Pleaſure to prohibit all Merchants, Maſters, and Owners of 'Ships from henceforth to ſet forth any Ship, or Ships, with Paſſen-'gers for *New-England*, till they firſt obtained ſpecial Licence on that 'behalf, from ſuch of the Lords of His Majeſty's moſt Honourable 'Privy-Council, as are appointed for the Buſineſs of Foreign Planta-'tions by ſpecial Commiſſion.

April 15.

Miniſters and Tithes in adjacent Pariſhes to *London*.

'WHereas an humble Petition was this day read at the Board un-'to the King's moſt Excellent Majeſty, in the Names of the Par-'ſons, Vicars, and Curats of the adjacent Places to the City of *Lon-'don*, namely, of St. *Margarets Weſtminſter*, St. *Clements Danes*, 'St. *Giles* in the *Fields*, St. *James Clarkenwel*, St. *Leonard Shoreditch*, 'St. *Martins* in the *Fields*, St. *Mary Whitechappel*, *Savoy* Pariſh, St. *George*, 'St. *Thomas*, and St. *Mary Newington*. In *Southwark*, St. *Magdalen* 'Bermondſey, St. *Saviours Southwark*, St. *Katharine Tower*, *Lambeth*, 'and St. *Olaves* in *Southwark*; Shewing unto His Majeſty the great 'increaſe of New-Buildings of late Years, erected in the Petitioners

'ſeveral

'ſeveral Pariſhes; and that the number of People is now ſo much 'augmented, that the ſaid Livings are for the preſent incompetent, 'and in no proportion meet for the diſcharge of ſo great Cures, ſome 'of the Petitioners receiving no Tithe at all, the reſt far ſhort of that 'which of right ought to be paid unto them; that great numbers of 'Pariſhioners in the aforeſaid Pariſhes, now living in Houſes, lately 'built upon that Ground which heretofore hath paid Tithes and other 'Rights (to the ſaid ſeveral Churches) pay now to the Petitioners, 'either nothing, or but 2 *d.* at *Eaſter*, and 3 *d.* at the moſt, beſides 'the Obventions of ſmall value; and therefore humbly beſought his 'Majeſty, amidſt His Gracious Thoughts towards the Clergy of *Lon-* 'don, to take the Caſe of the Pariſhioners into His Princely Care, and 'to take ſome courſe for the better maintenance of the Petitioners, 'and for the eſtabliſhing of their Right. And whereas by former 'Order hath the ſaid Parſons, Vicars, and Curats, and alſo the Church- 'Wardens, and divers of the principal Pariſhioners of the ſaid Pariſhes 'appeared this day before His Majeſty and their Lordſhips, in whoſe 'hearing and preſence, the ſaid Petition being again read, they the 'ſaid Clergy, and Church-Wardens, and Pariſhioners, were demand- 'ed by His Majeſty whether they were ready and willing to ſubmit to 'His Majeſty's Pleaſure and Determination in the things which were 'moved and deſired in the ſaid Petition; whereunto the ſaid Clergy 'readily aſſented, but the aforeſaid Church-Wardens and Pariſhioners 'alleadged themſelves to be no way authorized thereunto. It was 'thereupon by His Majeſty ordered, That the ſaid Clergy ſhould 'forthwith prepare their Submiſſions reſpectively. And that the 'Church-Wardens and Veſtry-Men of the aforeſaid ſeveral Pariſhes, 'ſhould with like diligence and expedition aſſemble their Pariſhioners; 'and communicating the Petition of the ſaid Clergy unto them, with- 'all acquaint them with His Majeſty's Pleaſure touching their Submiſ- 'ſion; and they the Pariſhioners by Writing, ſigned with their hands, 'fully to authorize their ſeveral Veſtry-Men, or Church-Wardens, to 'return unto His Majeſty their Anſwer therein. And that both the 'ſaid Clergy, as alſo the Veſtry-Men, or Church-Wardens of each 'Pariſh ſo authorized, fail not to give their attendance, with their 'ſaid Submiſſions and Authorizations, upon *Sunday* the *6th* of *May* 'next. Whereof all Prrties are required hereby to take notice, and 'to govern themſelves accordingly.

May the 4*th*.

Another Order of the Lords of the Council concerning St. *Gregory*'s Church.

'THis day upon conſideration, as well of the Petition of the Pa- 'riſhioners of St. *Gregories*, as of certain Articles propounded 'by the Pariſhioners of St. *Gregory*'s aforeſaid, to the Pariſhioners of '*Chriſts-Church*, and of others propounded by the Pariſhioners of '*Chriſt-Church* to thoſe of St. *Gregory*'s, concerning the accommodating 'the Pariſhioners of St. *Gregory*'s in the Weſt end of *Chriſt-Church*, 'for the exerciſing of Divine Service there. It was by the Board 'ordered,

'That the Pariſhioners of St. *Gregory*'s ſhall place no Pews in *Chriſt-* '*Church*, but ſuch as ſhall be moveable, to the end that Burials may 'not be hindered, when thoſe of *Chriſt-Church* have occaſion to bury 'there.

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'That for the ſaid Pariſhioners of St. *Gregory's* coming in and going, 'they ſhall make uſe of the Weſt Doors only.

'That they ſhall depart and leave the ſaid Weſt end of the Church 'at the Feaſt of St. *John Baptiſt*, which ſhall be in the Year of Our 'Lord God 1641.

'That thoſe of St. *Gregory's* ſhall leave the Church as they found it, 'and as well repaired in all reſpects, ordinary uſe and wearing ex-'cepted.

'That thoſe of St. *Gregory's* ſhall have liberty to bury ten of their 'Pariſhioners every Year (if there be occaſion) within the Weſt end 'of *Chriſt-Church*, for that they have no other place where to bury 'their Dead.

'That the Pariſhioners of *Chriſt-Church* and St. *Gregory's*, ſhall from 'time to time ſubmit themſelves to the Arbitrement and Commands of 'the Lord Biſhop of *London* and his Succeſſors for the compoſing of 'all Differences which ſhall ariſe between the ſaid Pariſhioners.

'And laſtly; Their Lordſhips do hereby order and require, That 'the Church-Wardens, Common-Council-Men, and Sidemen, as well 'of the Pariſh of St. *Gregory's*, as of that of *Chriſt-Church* ſhall ſub-'ſcribe to the performance of all the aforeſaid Articles; and that ſuch 'their Subſcription, together with this their Lordſhips Order, ſhall 'oblige reſpectively both the one and the other ſide to the due per-'formance of the ſame, and every part thereof. And upon this 'Subſcription, which is forthwith required, thoſe of *Chriſt-Church* 'ſhall preſently deliver the Keys of that part of the Church to thoſe 'of St. *Gregory's*. Hereof as well the Pariſhioners of *Chriſt-Church*, 'as thoſe of St. *Gregory's*, are to take notice, and conform themſelves 'accordingly.

At the Court at *Whitehall*, May 6.

Preſent,

The King's moſt Excellent Majeſty.

Lord Arch-Bp. of *Canterbury*,	Earl of *Holland*,
Lord *Keeper*,	Earl of *Danby*,
Lord *Treaſurer*,	Earl of *Morton*,
Lord *Privy-Seal*,	Earl of *Roxburgh*,
Lord Duke of *Lenox*,	Lord *Cottington*,
Lord Marqueſs *Hamilton*,	Mr. *Treaſurer*,
Earl *Marſhal*,	Mr. *Comptroler*,
Lord *Great Chamberlain*,	Mr. *Vice-Chamberlain*,
Lord *Chamberlain*,	Mr. Secretary *Cook*,
Earl of *Dorſet*,	Mr. Secretary *Windebank*.

A further Order concerning Tithes as to the Out-Pariſhes.

'THis day Information was given to His Majeſty and the Board, 'That where His Majeſty's Order of the of *April* laſt, touch-'ing the Submiſſion of ſixteen of the Out-Pariſhes in the Suburbs of '*London*, and the Liberties of *Weſtminſter*, unto His Majeſty and the 'Board, concerning the *Increaſe of Maintenance to their Miniſters*, in 'ſuch manner as other Pariſhes within the City of *London* had done,

'was

14 *Caroli.*

'was publiſhed within the Pariſh Church of St. *Giles in the Fields*, 'upon *Aſcenſion* day laſt paſt; That one *George Winder*, qualifying 'himſelf a Meſſenger Extraordinary of His Majeſty's *Chamber*, did, in 'the midſt of a great Aſſembly of the Pariſhioners, who then ſeemed 'inclinable to return unto His Majeſty a modeſt and reſpective Anſwer 'to His Pleaſure ſignified unto them, did in a moſt uncivil and inſo-'lent manner, afront Mr. Dr. *Heywood*, one of His Majeſty's Chaplains 'in Ordinary, Parſon of the ſaid Pariſh, and *Lawrence Whitaker* Eſq; 'one of His Majeſty's Juſtices of the Peace, an Inhabitant in the ſaid 'Pariſh, when they delivered the Points of the ſaid Order to the 'Aſſembly, and perſwaded them to ſubmiſſion therein required, 'whereby, and by his peremptory carriage, and affirming of untruths, 'the Votes of the ſaid Pariſhioners were diverted from giving ſuch 'ſatisfaction to His Majeſty's Propoſitions as were expected. It was 'therefore ordered by His Majeſty and the Board, That the Lord '*Chamberlain* of His Majeſty's Houſhold, ſhould be prayed and requi-'red to call the ſaid *George Winder* before him, and examine him 'touching the ſaid Offence; and if he found it to be as was informed, 'that he ſhould then take ſuch order for his Puniſhment, either by 'taking from him the countenance of his pretended Service, or other-'wiſe, as his Lordſhip ſhall find his Offence to deſerve.

Auguſt 19.

'WHereas it is obſerved, That ſuch Miniſters who are uncon-'formable to the Diſcipline and Ceremonies of the Church 'here, have and do frequently tranſport themſelves to the *Summer-'Iſlands*, and other His Majeſty's Plantations abroad, where they 'take liberty to nouriſh and preſerve their Factious and Schiſmatical 'Humours, to the ſeducing and abuſe of His Majeſty's Subjects, and 'the hindrance of that good Conformity & Unity in the Church, which 'His Majeſty is careful and deſirous to eſtabliſh throughout His Domi-'nions. We are therefore in His Majeſty's Name, and by His expreſs 'Command, hereby to pray and require your * Lordſhip to take a 'preſent and ſtrict Order, That no Clergy-Men be from hence-forth 'ſuffered to go over into the *Summer-Iſlands*, but ſuch only as ſhall 'have approbation in that behalf, from Our very good Lords, the 'Lord Arch-Biſhop of *Canterbury* his Grace, and the Lord Biſhop of '*London*. And that for all ſuch of them as are already gone thither, 'without ſuch Approbation, that you cauſe them forthwith to be re-'manded back hither. And ſo expecting a good account hereof from 'your Lordſhip, we bid you very heartily farewel.

Unconformable Miniſters.

* The Lord Admiral.

Inſtructions for Captain William Legg, *concerning the Ordnance, Arms, and Proviſions ſent to* Kingſton *upon* Hull.

'YOu are, with the Aſſiſtance and Atteſtation of the Mayor of 'the ſaid Town for the time being, to take a particular view and 'tale of the reſpective Proviſions that ſhall be there landed, and which 'are committed, by the Office of the Ordnance, to *John Spencer*, one 'of His Majeſty's Gunners, and the ſeveral Maſters of the Ships where-'in they were ſent, comparing the Indentures with the Charge of

Arms and Ammunition at *Hull*.

'the

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'the Indentures, and accordingly give a Diſcharge to ſuch as tranſported them, and not otherwiſe.

'You are alſo, with the like Aſſiſtance and Atteſtation, to take a particular view and tale of the reſpective Proviſions, being 800 Muſquets compleat, and 2000 Pikes, and all other Proviſions which are to be brought out of the *Low Countries* by Sir *Jacob Aſhley*; and you are to indent, as well for what you receive from the *Low-Countries*, as for what you receive out of the Ships from the *Tower*, and to ſend your Indenture for all the ſaid Proviſions into the Office of the Ordnance.

'You ſhall take care that all the ſaid Proviſions be lodged in a convenient and ſafe Store-houſe, and in ſuch order and decency, that the ſame may not only be freed from all danger and detriment, but be ready upon all occaſions; to which purpoſe you are to keep particular Memorials, or Liſts, of the Place and Order wherein each nature of the Proviſions committed to the charge is placed.

'You, with the aſſiſtance of the Mayor, are to ſell Powder, Match, and Muſquet-ſhot only, (and no other Proviſions in your Charge at *Hull*) to ſuch Perſons of the ſaid Towns or Counties thereabouts, as ſhall bring Certificate from one or more of the Deputy-Lieutenants of the ſaid Counties, or of the Mayor, and two other Magiſtrates of any Corporation reſpectively, That the ſaid Buyers are fit and reſponſible Perſons to be furniſhed with ſuch Munitions.

'You are to keep a particular account of the Sale of all, or any the ſaid Proviſions, expreſſing therein to whom, at what time, and at what rates the ſame are ſold; and the Accompt to be returned to the Office of the Ordnance, and the hands of your ſelf and the Mayor of the ſaid place, at which time the ſaid Certificates of the Deputy-Lieutenants, and the Magiſtrates, is likewiſe to be delivered into the Office, and an acknowledgment under the hands of the Party or Parties that ſhall buy any of the ſaid Proviſions, what he hath received, and what he hath paid.

'When any conſiderable proportion of Powder, Match, or Muſquet-ſhot ſhall be ſold, you are to give ſuch timely notice to the Maſter of the Ordnance, that ſupply accordingly may be returned unto you.

'The Monies proceeding from ſuch Sales, is to be from time to time delivered to ſuch Perſons as the Lord Treaſurer ſhall appoint to receive the ſame from you.

'As for the iſſuing or diſpoſing of any other part of the ſaid Proviſions committed to your truſt, beſides Powder, Match, and Muſquet-ſhot, you are to receive further Orders and Inſtructions, either from his Majeſty, the Lords of the Council, or Maſter of the Ordnance.

'You having received your Munition from hence, and thoſe Arms from *Holland*, and diſpoſed of them in ſuch ſafety as aforeſaid, ſhall repair to *Newcaſtle* with the Engineer; and if Sir *Jacob Aſhley* ſhall not be come to *Hull*, you ſhall notwithſtanding go to *Newcaſtle*, and diſpatch there according to your further Inſtructions concerning that Town, leaving Mr. *Leonard Pinkney*, the Bearer hereof, to attend Sir *Jacob Aſhley*'s arrivial, and to receive the Arms by him brought thither, and to diſpoſe of them as you ſhall direct before you go.

'During

14 *Caroli.*

'During which time of your abſence at *Newcaſtle*, you ſhall de-
'pute ſuch as you ſhall think fit; who with the atteſtation of the
'Mayor, according to the former Inſtructions, ſhall iſſue and make
'ſale of ſuch Powder, Match, and Muſquet-ſhot as is ordered and
'warranted as aforeſaid until your return.

'You are likewiſe to take knowledg, That upon ſignification of
'your Letter, his Majeſty is pleaſed, for the better encouragement of
'the Inhabitants, to fortify the Town, to lend them ſix Demi-Culve-
'rings of Iron, with their Field-Carriages, mounted upon unſhod-
'Wheels, with Ladles and Spunges belonging to them; they indent-
'ing for the ſame with the Maſter and Office of the Ordnance, ac-
'cording to courſe.

'You are further to certify the Maſter of the Ordnance, what
'ſtores of Ordnance and other Munition have bin formerly in charge
'at *Hull*.

'And laſtly; In regard that neither the Proviſions that ſhall come
'from the *Tower* to *Hull*, nor thoſe out of the *Low-Countries*, can be
'ſtowed without Mony, Men, and Labour, you are to adviſe with
'the Mayor touching the Hire uſually given to Labourers there; and
'thoſe you imploy, to give them Wages accordingly; and the ſame
'courſe you ſhall take at *Newcaſtle*. And to enable you thereunto, you
'ſhall receive 300 *l.* by *John Spencer*; whereof you are to render an
'Accompt of your ſeveral Diſburſements, ſubſcribed by the ſeveral
'Perſons whom you imploy, atteſted by the reſpective Mayors of *Hull*
'and *Newcaſtle*. As alſo out of the ſaid Monies, to pay to *Thomas*
'*Heath* ſuch Monies as he ſhall neceſſarily diſburſe for his Majeſty's
'Service in ſtowing or iſſuing of the Munition or Arms upon Certi-
'ficate thereof, ſubſcribed by the Magiſtrates of the Town.

The Prices of Powder, Match, and Arms to be ſold, viz.

Powder	18 *d.* the pound.
Match	1 *l.* 10 *s.* the C. Weight.
Muſquets	18 *s.* 6 *d.* the Piece.
Bandaleers	3 *s.* the peece.
Reſts for *Muſquets*	10 *d.* the peece.
Muſquet-ſhot	18 *s.* the C. weight.
Long Pikes	3 *s.* 2 *d.* the peece.
Corſlets, conſiſting of *Back*, *Breaſt*, *Gorget* and *Head-piece*	22 *s.* the peece.
Swords	7 *s.* 6 *d.* the peece.
Girdles and *Hangers*	2 *s.* the peece.

September 30.

Letters to the L. Lieutenants of *Northumberland*, &c.

'WHereas his Majeſty hath bin graciouſly pleaſed of his Princely
'Care and Providence for the preſervation of the publick
'Peace and Safety of his People, and for the better ſtrengthening of
'the *Northern Parts* of this his Majeſty's Kingdom, to ſend to the
'Towns of *Kingſton* upon *Hull* and *Newcaſtle*, Arms, Powder, Shot,
'Match, Bullet, and other Munition; to the end that ſuch of his
'Majeſty's Subjects of this Kingdom as are deſirous to furniſh them-
'ſelves with ſuch Proviſions for their own proper uſe, or for the uſe

'of

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'of Towns or Places in this Kingdom, may for their Mony be there-
'with ſupplied. Whereof We have thought good hereby to give
'your Lordſhip notice, That your Lordſhip let that County, and the
'Corporations in the ſame, know his Majeſty's Care of their Good, and
'that you may make further uſe of it for the advancement of his Ma-
'jeſty's Service as there ſhall be occaſion. And ſo we bid, &c.

Names of the Lord Lieutenants.

Counties.	Ld Lieutenants.	Counties.	Ld Lieutenants.
Nottingham, *Derby*, —	Earl of *Newcaſtle.*	*Northumberland* —	Earl of *Arundel* and *Surrey.*
York —	Lord *V. Wentworth.*		E. of *Northumberland*
Lancaſter —	Earl of *Derby.*	*Cumberland*	Earl of *Cumberland.*
Cheſter —	Lord *Strange.*		Earl of *Suffolk.*
Stafford —	Earl of *Eſſex.*	*Weſtmorland*	Lord *Maltravers.*
			Lord *Clifford.*
		Dureſm —	Biſhop of *Dureſm.*

The Qu. Mother of *France* comes to *England.*

October the laſt, *Mary de Medicis*, the Queen Mother of *France*, came to *London*, and ſo to St. *James*'s. The People were generally Malecontent at her coming, and wiſh'd her farther off; for they did not like her Train and Followers, which had often been obſerved to bring the Sword or Peſtilence, ſo that ſhe was beheld as ſome Meteor of ill ſignification. Nor was one of theſe Calamities thought more the effect of her Fortune than Inclination, for her reſtleſs and unceſſant Spirit was prone to embroil all whereſoever ſhe came. Her impetuous banding and combining with *Monſieur* the Duke of *Orleans*, and the improſperity of that enterpriſe, made *France* too hot for her, and drave her, in the Year 1631, to *Bruſſels*, where the Cardinal *D' Infanta*, treated her a while with moſt honourable Careſſes and Reſpects; but *Flanders*, which at firſt ſeemed her place of Refuge, became afterwards her greateſt Danger, ſhe being (as her own *Manifeſto* ſets forth) ſo hunted and purſued with continual Imprecations and Curſes there, as ſhe began to fear ſome violence to her Perſon; ſo that quitting that Country, ſhe betook her ſelf to the Protection of the Prince of *Orange* 1637. Long ſhe ſtaied not there, but having received an invitation from the Queen her Daughter, reſorted hither.

November 12.

A Hearing appointed of divers Buſineſſes betwixt the Ld Deputy and Council of *Ireland*, and the Ld *Chancellor.*

'UPon the motion of the Lord Vicount *Wentworth*, Lord Deputy
'General for His Majeſty in the Kingdom of *Ireland*; it was this
'day ordered by his Majeſty, with Advice of the Board, That on
'*Tueſday* ſevennight next, at two of the Clock in the Afternoon, at
'the Council Chamber in *Whitehall*, being the 12*th* of this preſent
'Month of *November*, the Cauſe concerning the Charge ſent unto his
'Majeſty by the Lord Deputy and Council of State of the Kingdom
'of *Ireland*, againſt the Lord Chancellor of *Ireland*, for divers undue
'Proceedings and Miſdemeanours in that Kingdom: As alſo the Cauſe
'of Appeal by the Lord Chancellor of *Ireland*, againſt a Decree made
'by the ſaid Lord Deputy and his Majeſty's Council of that Kingdom,

'and

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'and a Review thereof deſired by the ſaid Lord Chancellor ſhall be 'heard: Whereof all the Parties concerned therein are to take no- 'tice, and prepare themſelves with their Counſel learned, and to at- 'tend accordingly. And in regard the Charge againſt the ſaid Lord 'Chancellor doth conſiſt of many ſeveral parts: To the end his Lord- 'ſhip may be better prepared for ſuch things as ſhall come in debate at 'the time aforeſaid (having reference to the ſaid Charge) he is to take 'notice, that there will be then firſt inſiſted upon theſe Particulars fol- 'lowing; *viz.* The Lord Chancellor delivering the *Negative Voice* of 'the Nobility againſt the Contribution for the Army. *Article* againſt 'the Lord Chancellor in the Cauſe between *Mary Fitzgerald*, Plantiff, 'and *John Fitzgerald*, Defendent. Miſdemeanors in *Jacob*'s Cauſe. 'Lord Chancellor's Miſdemeanors and Irregularities in the Cauſe be- 'tween Dr. *Medcalf*, Plantiff, and *George Harpool* and others, Defen- 'dents.

Novemb. 3.

To pay Ship-money in Arrears.

'WHereas upon a late Examination of the Account of the Ship- 'money taken by Us in the preſence of his Majeſty, to be 'levied upon the Writs iſſued in the Year 1637, notwithſtanding the 'continual calling upon you, the Sheriff of the laſt Year, by this 'Board, by his Majeſty's ſpecial Command, it appeareth there is yet 'left an Arrear of We have therefore thought fit 'hereby, according to his Majeſty's ſpecial Command, to require you 'the Sheriff for the laſt Year, with all poſſible ſpeed, upon pain of his 'Majeſty's diſpleaſure, and a ſevere proceeding to be had againſt you, 'to pay unto Sir *William Ruſſel*, Knight, Treaſurer of the Navy, ſo 'much of the ſaid Arrear as you have already collected and not paid 'in, and to aſſeſs, levy and collect by Diſtreſs or otherwiſe, according 'to the tenor of the ſaid Writ iſſued in the Year 1637, the reſidue 'of the ſaid Arrear remaining unaſſeſſed, unlevied or uncollected; 'and to pay in the ſame with all poſſible ſpeed, as aforeſaid: For 'which purpoſe We do require and authorize you the preſent Sheriff, 'to give Warrant and Authority to you the Sheriff of the laſt Year, 'for the aſſeſſing, levying, and collecting as aforeſaid, of the ſaid 'Arrears; as alſo to give like Warrant and Authority to ſuch other 'meet Perſons as you the Sheriff for the laſt Year ſhall preſent and 'nominate unto you the preſent *High-Sheriff*, either jointly or ſeveral- 'ly, to be imploied in this Service by you the *Sheriff* of the laſt Year, 'from whom only his Majeſty doth expect an Account thereof for 'your own time. Of performance of all which, you, or either of you, 'may not fail, as you tender the good Opinion of his Majeſty and this 'Board, at your perils. And you the *Sheriff* for the laſt Year are to 'collect and pay in all the ſaid Arrears to Sir *William Ruſſel* by the be- 'ginning of *Candlemaſs* Term: Or elſe you are to attend his Majeſty 'and the Board the ſecond Sunday of that Term, to give an Account 'why the ſame is not levied and paid in. And ſo, *&c.* Dated *ult.* 'Novemb. 1638.

Decemb. 5. 1638.

Knighthood.

'WIlliam *Coke*, Eſq; one of his Majeſty's Juſtices of Peace for the 'County of *Nottingham*, having by his under-writing of '25 *l.* for Compoſition for *Knighthood* (being the Rate appointed for

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'Perſons of Quality) made himſelf liable in the payment thereof, 'and is returned as Debtor for the ſame. Foraſmuch as We are in-'formed by the Commiſſioners imploied in that Service, that he hath 'done his Majeſty very good Service upon ſeveral occaſions, We 'therefore think it fit that the ſaid Sum of 25 *l.* be reduced to 5 *l.* 'And do accordingly will and require you, that the ſaid Mr. *Coke*, 'having paid the ſaid Sum of 5 *l.* be diſcharged of the *overplus* of the 'ſaid Fine returned upon him *inſuper* upon the account of Sir *Jervis* '*Clifton*, Knight and Baronet, Collector of the ſaid Monies for the 'Fines of *Knighthood* in the ſaid County of *Nottingham*. And for ſo 'doing this ſhall be your Warrant.

December 16. 1638.

To find Horſe and Arms.

'THis day, his Majeſty being preſent in Council, was pleaſed in his 'Provident and Princely Care for the Safety and Defence of the 'Realm, to take into Conſideration amongſt other Particulars, the 'making compleat, and increaſing all that conveniently may be, the '*number of Horſe in every County*, as a moſt important part of the 'Strength of the Kingdom. And for the better advancing and putting 'in execution thereof, it was taken into deliberation what *proportion of* '*Lands and Eſtate* within the County *ought to be chargeable with the find-*'*ing of Horſe*; and upon mature advice thought fit and reſolved, That 'every perſon having Lands of Inheritance of the clear yearly value of '*two hundred* or *three hundred pounds per Ann.* within the County, or 'other Eſtate equivalent thereunto, ſhould be chargeable with a *Horſe*, 'viz. *two hundred pounds per Annum* with a *Light Horſe*, and *three hun-*'*dred pounds per Annum* with a *Lance*, at the diſcretion of the Lord-'Lieutenant of that County for the time being. And whereas it was 'now likewiſe taken into conſideration that the ſparing of ſome Per-'ſons doth open a gap to excuſes and backwardneſs in others; to the 'weakning both of Horſe and Foot. And for that by Letters un-'der his Majeſty's Roial Signature, bearing date 24*th* day of *May*, 'And by a Minute of Letters from the Board, ſent together with his 'Majeſty's ſaid Letters to the Lords Lieutenants of every County, it ap-'peared that his Majeſty's pleaſure was then declared and ſignified to 'be, *That no Man's Purſe ſhould be ſpared in theſe Services, upon any Ex-*'*cuſe or Pretence whatſoever*; And that his *own Servants*, and thoſe that 'attend him in Court, ſhould be priviledged only, and ſpared from 'perſonal and actual Duties, but their Lands and Revenues to be as li-'able as any others to the Charge of finding Arms in thoſe Counties 'where the ſame do lie. It was therefore (according to his Majeſty's 'expreſs will and pleaſure now again *Declared*) *Reſolved* and *Ordered*, 'That the direction and Command given on that behalf, by his Ma-'jeſty's former Letters, ſhould be perſued and put in Execution by the 'Lords Lieutenants of every County. And that the like Rule ſhould 'be held and obſerved as well concerning the Perſons as the Lands and 'Revenues, of all and every the *Miniſters* and *Officers* of any his Ma-'jeſty's *Courts of Juſtice*, or any others that pretend *Priviledge* by rea-'ſon of any relation to his Majeſty's Service, or dependence upon any 'great Officer in reſpect of *his Place* and Office, which however it was 'not ſo particularly expreſſed in his Majeſty's former Letters, yet (as 'his Majeſty was now pleaſed to obſerve and declare) the ſame was

neceſ-

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'neceſſarily implied; for that if *none of his own Servants* were to be 'priviledged and exempted in their Lands and Eſtates from being 'chargeable with *Arms*, much leſs was it intended that the *Miniſters* 'and *Officers* of any of his *Courts of Juſtice*, or any other pretending '*Privilege* by his Majeſty's Service, or by dependence upon any great 'Officers in reſpect of their Offices, ſhould in a like caſe have any great 'Priviledge or Exemption allowed them. Hereof a Copy is to be 'forthwith ſent to the Lord Lieutenant of every County.

Sir *William Ruſſel*'s Accompt of Moneys received upon the *Ship-money* Writs which iſſued out *An.* 1637.

The Charge of Sir *William Ruſſel*, and Sir *Henry Vane*, Knights, Treaſurers of his Majeſty's Navy, touching the Moneys by them received of the ſeveral Sheriffs hereafter named, and by them levied by virtue of his Majeſty's *Writs*, iſſued out of the high Court of *Chancery* in the 14*th* Year of his Majeſty's Reign, for and towards the ſetting forth and furniſhing of divers Ships for the defence of this Realm, and paid over by them the ſaid Sheriffs unto the ſaid Sir *William Ruſſel*, and Sir *Henry Vane*, by virtue of a ſpecial *Commiſſion* under the great Seal; Dated the day of in the ſaid 14*th* Year of his Majeſty's Reign, *Annoque Dom.* 1638. And by Order from the Board to be by them expended and diſburſed in and about the ſaid Service.

Imprimis, The ſaid Sir *William Ruſſel*, and Sir *Henry Vane*, are charged with the ſum of five thouſand and five hundred pounds, by them received of the Sheriffs of the Counties of *Berks*, *Oxford*, *Buckingham*, and *Bedford*, as followeth, *viz.* With one thouſand four hundred and fifty pounds received of the Sheriff of the County of *Berks*. With one thouſand and three hundred pounds receiv'd of the Sheriff of the County of of *Oxford*; with one thouſand ſix hundred and fifty pounds received of the Sheriff of the County of *Buckingham*; and with received of the Sheriff of the County of *Bedford*, for and towards the ſetting forth and furniſhing of one Ship of 450 Tuns, for the ſervice aforeſaid.

Item, The ſum of four thouſand eight hundred and fifty pounds, by them received of the Sheriffs of the ſeveral Counties of *Cornwal* and *Devon*, for and towards the ſetting forth and furniſhing of one Ship of 400 Tuns, for the ſervice aforeſaid.

Item, With the ſum of four thouſand eight hundred pounds, by them received of the Sheriffs of the Counties of *Dorſet* and *Somerſet*, and of the Mayor and Sheriffs of the City of *Briſtol*, for and towards the ſetting forth and furniſhing of one Ship of 400 Tuns, for the ſervice aforeſaid.

Item, With the ſum of four thouſand two hundred pounds, by them received of the Sheriffs of the Counties of *Gloceſter* and *Wilts*, for and towards the ſetting forth and furniſhing of one Ship of 350 Tuns, for the ſervice aforeſaid.

Item, With the ſum of five thouſand pounds, by them received of the Sheriffs of the Counties of *Southampton*, *Surry*, *Suſſex*, and *Cinque-Ports* there, for and towards the ſetting forth and furniſhing of one Ship of 400 Tuns, for the ſervice aforeſaid.

Item, With the ſum of four thouſand five hundred pounds, by them received of the Sheriffs of the ſeveral Counties of *Cambridg*, *Huntingdon*, and *Northampton*, for and towards the ſetting forth and furniſhing of one Ship of 350 Tuns, for the ſervice aforeſaid.

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Item, With the ſum of four thouſand nine hundred pounds, by them received of the Sheriffs of the ſeveral Counties of *Cheſter*, *Derby*, *Staffford*, and *Lancaſter*, for and towards the ſetting forth and furniſhing of one Ship of 400 Tuns, for the ſervice aforeſaid.

Item, With the ſum of two thouſand pounds, by them received of the Sheriffs of the Counties of *Cumberland*, *Weſtmerland*, *Northumberland*, and *Dureſme*, for and towards the ſetting forth and furniſhing of one Ship of 150 Tuns, for the ſervice aforeſaid.

Item, With the ſum of five thouſand and five hundred pounds, by them received of the Sheriffs of the Counties of *Eſſex* and *Kent*, and *Cinque-Ports* there, for and towards the ſetting forth and furniſhing of one Ship of 450 Tuns, for the ſervice aforeſaid.

Item, With the ſum of five thouſand five hundred pounds, by them received of the Sheriffs of the ſeveral Counties of *Suffolk* and *Norfolk*, for and towards the ſetting forth and furniſhing of one Ship of 450 Tuns, for the ſervice aforeſaid.

Item, With the ſum of three thouſand three hundred pounds, by them received of the Sheriffs of the ſeveral Counties of *Hertford* and *Middleſex*, for and towards the ſetting forth and furniſhing of one Ship of 250 Tuns, for the ſervice aforeſaid.

Item, With the ſum of four thouſand nine hundred pounds, by them received of the Sheriffs of the ſeveral Counties of *Lincoln*, *Rutland* and *Leiceſter*, for and towards the ſetting forth and furniſhing of one Ship of 400 Tuns, for the ſervice aforeſaid.

Item, With the ſum of three thouſand five hundred pounds, by them received of the Sheriffs of the ſeveral Counties of *Monmouth*, *Hereford*, and *Salop*, for and towards the ſetting forth and furniſhing of one Ship of 300 Tuns, for the ſervice aforeſaid.

Item, With the ſum of five thouſand five hundred pounds, by them received of the Sheriffs of the ſeveral Counties of *York* and *Nottingham*, for and towards the ſetting out and furniſhing of one Ship of 450 Tuns, for the ſervice aforeſaid.

Item, With the ſum of two thouſand ſeven hundred pounds, by them received of the Sheriffs of the Counties of *Warwick* and *Worceſter*, for and towards the ſetting out and furniſhing one Ship of 200 Tuns, for the ſervice aforeſaid.

Item, The ſaid Sir *William Ruſſel* is charged with the ſum of five thouſand pounds, by him received of the Sheriff of the County of *Dorſet*, for and towards the ſetting out and furniſhing one Ship of 500 Tuns, for the ſervice aforeſaid.

Item, With the ſum of two thouſand pounds, by him received of the Sheriff of the County of *Dureſme*, for and towards the ſetting out and furniſhing one Ship of 200 Tuns, for the ſervice aforeſaid.

Item, With the ſum of eight thouſand pounds, by him received of the Sheriff of the County of *Eſſex*, for and towards the ſetting out and furniſhing one Ship of 800 Tuns, for the ſervice aforeſaid.

Item, With the ſum of five thouſand five hundred pounds, by him received of the Sheriff of the County of *Glocester*, for and towards the ſetting out and furniſhing one Ship of 550 Tuns, for the ſervice aforeſaid.

Item, With the ſum of ſix thouſand pounds, by him received of the Sheriff of the County of *Southampton*, for and towards the ſetting out and furniſhing one Ship of 600 Tuns, for the ſervice aforeſaid.

Item,

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Item, With the ſum of three thouſand five hundred pounds, by him received of the Sheriff of the County of *Hereford*, for and towards the ſetting forth and furniſhing of one Ship of 350 Tuns, for the Service aforeſaid.

Item, With the ſum of four thouſand pounds, by him received of the Sheriff of the County of *Hertford*, for and towards the ſetting forth and furniſhing of one Ship of 400 Tuns, for the Service aforeſaid.

Item, With the ſum of two thouſand pounds, by him received of of the Sheriff of the County of *Huntington*, for and towards the ſetting forth and furniſhing of one Ship of two hundred Tuns, for the Service aforeſaid.

Item, With the ſum of eight thouſand pounds, by him received of the Sheriff of the County of *Kent*, and *Cinque-Ports* in *Kent*, for and towards the ſetting forth and furniſhing of one Ship of 800 Tuns, for the Service aforeſaid.

Item, With the ſum of four thouſand pounds, by him received of the Sheriff of the County of *Lancaſter*, for and towards the ſetting forth and furniſhing one Ship of 400 Tuns, for the Service aforeſaid.

Item, With the ſum of four thouſand five hundred pounds, by him received of the Sheriff of the County of *Leiceſter*, for and towards the ſetting forth and furniſhing of one Ship of 450 Tuns, for the Service aforeſaid.

Item, With the ſum of eight thouſand pounds, by him received of the Sheriff of the County of *Lincoln*, for and towards the ſetting forth and furniſhing of one Ship of 800 Tuns, for the Service aforeſaid.

Item, With the ſum of five thouſand pounds by him received of the Sheriff of the County of *Middleſex*, for and towards the ſetting forth and furniſhing of one Ship of 500 Tuns, for the Service aforeſaid.

Item, The ſaid Sir *William Ruſſel* and Sir *Henry Vane*, are charged with the ſum of one hundred threeſcore and eight pounds, by them received of the Sheriff of the County of *Angleſey*, for and towards the ſetting forth and furniſhing of one Ship of 100 Tuns, for the Service aforeſaid.

Item, With the ſum of two hundred and ſixteen pounds, by them received of the Sheriff of the County of *Carnarvon*, for and towards the ſetting forth and furniſhing of one Ship of 100 Tuns, for the Service aforeſaid.

Item, With the ſum of four hundred twenty and four pounds, by them received of the Sheriff of the County of *Denbigh*, for and towards the ſetting forth and furniſhing of one Ship of 100 Tuns, for the Service aforeſaid.

Item, With the ſum of two hundred and ſixteen pounds, by them received of the Sheriff of the County of *Flint*, for and towards the ſetting forth and furniſhing of one Ship of 100 Tuns, for the Service aforeſaid.

Item, With the ſum of three hundred twenty and two pounds, by them received of the Sheriff of the County of *Montgomery*, for and towards the ſetting forth and furniſhing of one Ship of 100 Tuns, for the Service aforeſaid.

Item, With the ſum of one hundred fifty and four pounds, by them received

An. 1638. received of the Sheriff of the County of *Merioneth*, for and towards the ſetting forth and furniſhing of one Ship of 100 Tuns, for the Service aforeſaid.

Item, With the ſum of three hundred threeſcore and one pounds, by them received of the Sheriff of the County of *Brecknock*, for and towards the ſetting forth and furniſhing of one Ship of 150 Tuns, for the Service aforeſaid.

Item, With the ſum of two hundred forty and eight pounds, by them received of the Sheriff of the County of *Cardigan*, for and towards the ſetting forth and furniſhing of one Ship of 150 Tuns, for the Service aforeſaid.

Item; With the ſum of three hundred and one pounds, by them received of the Sheriff of the County of *Carmarthen*, for and towards the ſetting forth and furniſhing of one Ship of 150 Tuns, for the Service aforeſaid.

Item, With the ſum of five hundred forty and ſeven pounds, by them received of the Sheriff of the County of *Glamorgan*, for and towards the ſetting forth and furniſhing of one Ship of 150 Tuns, for the Service aforeſaid.

Item, With the ſum of two hundred and threeſcore pounds, by them received of the Sheriff of the County of *Pembroke*, for and towards the ſetting forth and furniſhing of one Ship of 150 Tuns, for the Service aforeſaid.

Item, With the ſum of one hundred fourſcore and three pounds, by them received of the Sheriff of the County of *Radnor*, for and towards the ſetting forth and furniſhing of one Ship of 150 Tuns, for the Service aforeſaid.

This Accompt coming to our hands, we thought meet to preſent it for the Reader's more particular ſatisfaction.

Affairs in *Scotland*.

Now we beg leave for a while to make a ſtep into *Scotland*, to give an Account of the Tranſactions of Affairs in that Kingdom ſince the Month of *December* in the preceding Year 1637. The *Scots* begin their Year always with the Month of *January*, according to Foreign ſtile; ſo the firſt thing that offers it ſelf in order of Time is, That his Majeſty ſent the Earl of *Roxborough*, Lord Privy-Seal (then at the Court in *England*) to *Scotland*, with certain Inſtructions to the Council, who were to meet at *Dalkeith*, to conſider of the Diſordered Affairs of that Kingdom. And the Council removed the Seſſion [or Term] from *Linlithgow* to *Sterling*, twenty four miles from *Edinburgh*, to the end the Multitudes might be diſperſed, under pain of Treaſon; but nevertheleſs they came in great Tumults to *Sterling* alſo, and the Earl of *Traquaire*, Lord Treaſurer of that Kingdom, being newly returned back from the King, went with the reſt of the Council to *Sterling*, where they cauſed a Proclamation to be made for the diſperſing of the huge and dangerous Tumults there aſſembled, and to aſſure the King's Subjects of his Majeſty's ſincerity towards the Religion Eſtabliſhed in that Kingdom, and cauſed the Proclamation to that purpoſe (following) to be made publick accordingly.

CHARLES

14 *Caroli.*

CHARLES by the Grace of God, King of *Great-Britain*, *France*, and *Ireland*, Defender of the Faith, *&c.* To Our Lovits, *&c.* Our Sheriffs in that Part conjunctly and severally, specially constituted, greeting.

A Proclamation to beat down Superstition. The King hath ordained a *Common-Prayer* Book.

FOrasmuch as We, out of Our Princely Care of maintenance of the true Religion already professed, and for beating down of all Superstition, having ordained a Book of Common-Prayer to be compiled for the general Use and Edification of Our Subjects, within Our Ancient Kingdom of Scotland: The same was accordingly done. In the framing whereof We took great care and pains, so as nothing past therein but what was seen and approved by Us, before the same was either divulged or printed; assuring all Our loving Subjects, That not only Our intention is, but even the very Book will be a ready means to maintain the True Religion already professed, and beat out all Superstition, of which We in Our own time do not doubt but in a fair course to satisfy Our good Subjects: But having seen and considered some Petitions and Declarations given in to Our Council against the said Book, and late Canons of the Church, We find Our Royal Authority much injured thereby, both in the Matter and in the Carriage thereof; whereby We conceive these of Our Nobility, Gentry, Burroughs, Ministers, and others, who kept and assisted these Meetings and Convocations, for contriving and forming the said Petitions, or who have subscribed the same, to deserve and be liable to Our high Censure, both in their Persons and Fortunes, as having convened themselves, without either Our Consent or Authority; yet because We believe, That what they have done herein, is out of a preposterous Zeal, and not out of any Disloyalty or disaffection to Soveraignty, We are graciously pleased, so far forth as concerns these Meetings, for consulting or subscribing of these Petitions, or presenting the same to any Judge or Judges in Our said Kingdom, to dispense therewith, and with what may be their Fault or Error therein, to all such as upon Signification or Declaration of Our Pleasure, shall retire themselves as becometh good and dutiful Subjects: To which purpose Our Will and Pleasure is, and We charge you straightly, and command, That these Letters seen, incontinent you pass, and in Our Name and Authority, make intimation hereof to all Our Lieges and Subjects, by open Proclamation, at all places needful, wherethrough none pretend ignorance thereof; and therewith also that you in Our Name and Authority, discharge all such Convocations and Meetings in time coming, under the pain of Treason. And also that you command, charge, and inhibit all Our Lieges and Subjects, That none of them presume, nor take in hand, to resort nor repair to Our Burgh of Sterling, nor to no other Burgh where Our Council & Session sits, till first they declare their Cause of coming to Our Council, and procure their Warrant to that effect. And further, That you charge and command all sundry Provosts, Bailiffs, and Magistrates, within every Burgh, That they and every one of them, have special care and regard to see this Our Royal Will and Pleasure really

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Per Actum Secreti Concilii.

Upon the publishing of this Proclamation, it met with this Protestation.

For God and the King.

February 19. WE *Noblemen, Barons, Ministers, Burgers, appointed to attend his Majesty's Answer to our humble Petition and Complaint, and to prefer new Grievances, and to do what else may lawfully conduce to our humble Desires; That whereupon the* 23*d of* September *last, we presented a Supplication to Your Lordships, and another upon the* 18*th of* October *last; and also a new Bill relative to the former upon the* 19*th of* December *last, and did therein humbly remonstrate our just Exceptions against the* Service Book, *and Book of* Canons; *and also against the* Arch-Bishops *and* Bishops *of this Kingdom, as the Contrivers, Maintainers, and Urgers thereof, and against their sitting as our Judges, until the Cause be decided; earnestly supplicating withal, to be freed and delivered from these and all other Innovations of that kind, introduced against the laudable Laws of this Kingdom, as that of the* High Commission, *and other Evils particularly mentioned, and generally contained in our foresaid Supplications and Complaints; and that this our Party Delinquent against our Religion and Laws, may be taken order with, and those pressing Grievances may be taken order with, and redressed according to the Laws of this Kingdom, as by our said Supplications and Complaints doth more largely appear; With the which, on the* 19*th of* December *last, we gave in a* Declinator *against the* Arch-Bishops *and* Bishops *as our Parties, who by consequence could not be our Judges: whereupon Your Lordships did declare, by Your Act at* Dalkeith, *the said* 19*th of* December, *That You would present our Petitions to His Majesty's Royal Consideration, and that without prejudice of the* Declinator *given in by us the said Supplicants, whereupon we should be heard at time and place convenient, and in the mean time should receive no prejudice, as the said Act in it self beareth. And*

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whereas we your Lordſhips Supplicants, with a great deal of patience, and hope alſo grounded on ſundry Promiſes, were expecting an Anſwer to theſe our humble Deſires, and having learned that upon ſome Directions of his Majeſty anent our Supplications and Complaints unto your Lordſhips of the Secret Council, your Lordſhips admits to the conſulting and judging anent our Supplications, and his Majeſty's Anſwer thereunto; the Arch-Biſhops and Biſhops our direct Parties, contrary to our firſt Declinator *propounded at* Dalkeith, *and now renewed at* Sterling; *and contrary to your Lordſhips Act aforeſaid at* Dalkeith, *and contrary to our Religion, and Laws, and humble Supplications; therefore leſt our ſilence be prejudicial to this ſo important a Cauſe, as concerns God's Glory and Worſhip, our Religion, Salvation, the Laws and Liberties of this Kingdom, or derogatory to the former Supplications and Complaints, or unanſwerable to the truſt of our Commiſſion; out of our bounden duty to our God, our King and native Country, we are forced to take Inſtruments in Notaries Hands, of your Lordſhips refuſal to admit our* Declinator, *or remove theſe our Parties, and to proteſt in manner following.*

Firſt, That we may have our immediate recourſe to our Sacred Soveraign, to preſent our Grievances, and in a legal way to proſecute the ſame before the ordinary competent Judges, Civil or Eccleſiaſtical, without any Offence offered by us, or taken by your Lordſhips.

Secondly, We proteſt that the Arch-Biſhops and Biſhops, our Parties complained upon, cannot be reputed or eſteemed Lawful Judges, to ſit in any Judicatory in this Kingdom, Civil or Eccleſiaſtical, upon any of the Supplicants, until after lawful Trial judicially, they purge themſelves of ſuch Crimes as we have already laid to their charge, offering to prove the ſame whenſoever his Sacred Majeſty ſhall pleaſe to give us audience.

Thirdly, We proteſt no Act nor Proclamation to follow thereupon, paſt, or to be paſt in Council or out of Council, in preſence of the Arch-Biſhops and Biſhops, whom we have already declined to be our Judges, ſhall be any ways prejudicial to us the Supplicants, our Perſons, Eſtates, lawful Meetings, Proceedings or Purſuits.

Fourthly, We proteſt that neither we, nor any whoſe Heart the Lord ſhall move to join with us in theſe our Supplications, againſt the aforeſaid Innovations, ſhall incur any danger in Life, Lands, or any Political or Eccleſiaſtical Pains, for not obſerving ſuch Acts, Books, Canons, Rites, Judicatures, Proclamations introduced without or againſt the Acts of General Aſſemblies, or Acts of Parliament, the Statutes of this Kingdom, but that it ſhall be lawful to us or them to uſe our ſelves in Matters of Religion, of the External Worſhip of God, and Polity of the Church, according to the Word of God, and laudable Conſtitutions of this Church and Kingdom, conform to his Majeſty's Declaration the 9th of December *laſt.*

Fifthly, Seeing by the legal and ſubmiſſive way of our former Supplications, all thoſe who take theſe Innovations to heart, have bin kept calm, and carried themſelves in a quiet manner in hopes of redreſs; We proteſt that if any Inconvenience ſhall fall out, which we pray the Lord to prevent, upon the preſſing of any the foreſaid Innovations or Evils, ſpecially or generally contained in our former Supplications and Complaints, and upon your Lordſhips refuſal, to take order there-anent, the ſame be not imputed unto us, who moſt humbly ſeek all things to be reformed by an Order.

Sixthly; We proteſt that theſe our Requeſts, proceeding from Conſcience,

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After this their Proteſtation, they did erect a great number of Tables (as they called them); in *Edinburgh* four Principals, one of the Nobility, another of the Gentry, a third of the Burroughs, and a fourth of the Miniſters. And the Gentry had many ſubordinate Tables, according to their ſeveral Shires. Theſe ſeveral Tables did conſult of what they thought fit to be propounded at the General Table, which conſiſted of ſeveral Commiſſioners choſen from the other four Tables. And from this time they proceeded in framing and ſubſcribeing of their Covenant; concerning which, ſaith Dr. *Belcanqual*, the reputed Penman of the King's Declaration, *That the firſt Dung that which from theſe Stables was thrown upon the Face of Authority and Government, was that lewd Covenant, and Seditious Band annexed unto it*; which followeth in theſe words.

The Confeſſion of Faith of the Kirk of *Scotland*, ſubſcribed at firſt by the King's Majeſty and his Houſhold in the Year of God 1580; thereafter by Perſons of all Ranks in the Year 1581, by Ordinance of the Lords of the Secret Council, and Acts of the General Aſſembly; ſubſcribed again by all ſorts of Perſons, in the Year 1590, by a new Ordinance of Council, at the deſire of the General Aſſembly; with a General Band for maintenance of the True Religion, and the King's Perſon, and now ſubſcribed in the Year 1638, by us Noblemen, Barons, Gentlemen, Burgeſſes, Miniſters, and Commons under ſubſcribing; together with our Reſolution and Promiſes for the Cauſes after ſpecified, to maintain the ſaid True Religion, and the King's Majeſty, according to the Confeſſion aforeſaid, and Acts of Parliament; the Tenure whereof here followeth.

'WE all, and every one of Us under written, do proteſt, 'That after long and due examination of our own Con-'ſciences in Matters of True and Falſe Religion, are now throughly 'reſolved of the Truth, by the Word and Spirit of God; and there-'fore We believe with Our Hearts, confeſs with Our Mouths, ſubſcribe 'with Our Hands, and conſtantly affirm before God and the whole 'World, That this only is the true Chriſtian Faith and Religion, plea-'ſing God, and bringing Salvation to Man, which now is by the 'Mercy of God revealed to the World by the preaching of the bleſ-'ſed Evangel. And received, believed, and defended by many and 'ſundry notable Kirks and Realms, but chiefly by the Kirk of *Scot-'land*, the King's Majeſty, and three Eſtates of this Realm, as God's 'Eternal Truth, and only Ground of Our Salvation; as more parti-

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'cularly is expreſſed in the Confeſſion of Our Faith, eſtabliſhed and 'publickly confirmed by ſundry Acts of Parliament; and now of a long 'time hath bin openly profeſſed by the King's Majeſty, and whole Bo-'dy of this Realm, both in Burgh and Land. To the which Con-'feſſion, and Form of Religion, we willingly agree in Our Conſcien-'ces in all Points, as unto God's undoubted Truth and Verity, grounded 'only upon his written Word; and therefore We abhor and deteſt 'all contrary Religion and Doctrine, but chiefly all kind of Papiſtry in 'general and particular Heads, even as they are now damned and 'and confuted by the Word of God, and Kirk of *Scotland*. But in 'ſpecial, We deteſt and refuſe the uſurped Authority of that Roman 'Antichriſt upon the Scriptures of God, upon the Kirk, the Civil 'Magiſtrate, and Conſciences of Men; all his Tyrannous Laws made 'upon indifferent Things againſt our Chriſtian Liberty; his Errone-'ous Doctrine againſt the Sufficiency of the Written Word, the Per-'fection of the Law, the Office of Chriſt and his bleſſed Evangel; His 'corrupted Doctrine concerning Original Sin, Our natural inability 'and rebellion to God's Law, Our Juſtification by Faith only, Our 'imperfect Sanctification and Obedience to the Law, the Nature, 'Number, and uſe of the Holy Sacraments; His five Baſtard Sacra-'ments, with all his Rights, Ceremonies, and falſe Doctrine, ad-'ded to the Miniſtration of the true Sacraments, without the Word 'of God. His cruel Judgments againſt Infants departing without the 'Sacrament; his abſolute neceſſity of Baptiſm; his blaſpemous Opi-'nion of Tranſubſtantiation, or real preſence of Chriſt's Body in the 'Elements, and receiving of the ſame by the Wicked, or Bodies of 'Men. His Diſpenſations, with ſolemn Oaths, Perjuries, and de-'grees of Marriage, forbidden in the Word; his cruelty againſt the 'Innocent divorced, his deviliſh Maſs; his blaſphemous Prieſthood; 'his prophane Sacrifice for the Sins of the Dead and the Quick; his 'Canonization of Men calling upon Angels or Saints departed, wor-'ſhipping of Imagery, Relicks, and Croſſes; dedicating of Kirks, Al-'tars, Days, Vows to Creatures; his Purgatory, Prayers for the Dead, 'Praying or Speaking in a ſtrange Language; with his Proceſſions 'and blaſphemous Letany, and multitude of Advocates or Mediators; 'his manifold Orders, Auricular Confeſſion; his deſperate and un-'certain Repentance; his general and doubtſome Faith; his Satisfa-'ctions of Men for their Sins; his Juſtification by Works, *Opus Ope-'ratum*, Works of Supererrogation, Merits, Pardons, Peregrinati-'ons and Stations. His Holy Water, baptizing of Bells, conjuring of 'Spirits, Croſſing, Saning, Anointing, Conjuring, Hallowing of 'God's good Creatures, with the Superſtitious Opinion joined there-'with. His worldly Monarchy, and wicked Hierarchy; his three ſo-'lemn Vows, with all his ſhavelings of ſundry ſorts; his erroneous 'and bloody Decrees made at *Trent*, with all the Subſcribers & Appro-'vers of that cruel and bloody Band conjured againſt the Kirk of God. 'And finally, We deteſt all his vain Allegories, Rites, Signs, and Tradi-'tions, brought in the Kirk without or againſt the Word of God, and 'Doctrine of this true Reformed Kirk. To which We join Our ſelves 'willingly, in Doctrine, Religion, Faith, Diſcipline, and Uſe of the Holy 'Sacraments, as lively Members of the ſame, in Chriſt Our Head, 'promiſing and ſwearing, by the Great Name of the Lord Our God, 'That We ſhall continue in the Obedience of the Doctrine and Diſci-

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'tion and Power all the days of Our Lives, under the pains con-
'tained in the Law, and danger both of Body and Soul in the day of
'God's fearful Judgment. And ſeeing that many are ſtirred up by Sa-
'tan, and that Roman Antichriſt, to Promiſe, Swear, Subſcribe, and
'for a time uſe the Holy Sacraments in the Kirk, deceitfully againſt
'their own Conſciences, minding thereby, firſt under the External
'Cloak of Religion, to corrupt and ſubvert ſecretly God's True Re-
'ligion within the Kirk; and afterwards, when time may ſerve, to
'become open Enemies and Perſecuters of the ſame, under vain hope
'of the Pope's Diſpenſation, deviſed againſt the Word of God, to his
'great Confuſion, and their double Condemnation in the Day of the
'Lord Jeſus.

'We therefore willing to take away all ſuſpicion of Hypocriſy, and
'of ſuch double dealing with God and his Kirk, proteſt and call the
'Searcher of all Hearts for Witneſs, that Our Minds and Hearts do
'fully agree with this Our Confeſſion, Promiſe, Oath, and Subſcrip-
'tion: ſo that We are not moved for any worldly Reſpect, but are
'perſuaded only in Our Conſciences, through the knowledg and
'love of God's True Religion, printed in Our Hearts by the Holy
'Spirit, as we ſhall anſwer to him in the Day when the Secrets of all
'Hearts ſhall be diſcloſed. And becauſe we perceive that the quietneſs
'and ſtability of Our Religion and Kirk doth depend upon the ſafety
'and good behaviour of the King's Majeſty, as upon a comfortable
'Inſtrument of God's Mercy granted to this Country for the mainte-
'nance of his Kirk, and miniſtration of Juſtice among us, we proteſt and
'promiſe with Our Hearts under the ſame Oath, hand writ, and pains,
'that We ſhall defend his Perſon and Authority, with Our Goods,
'Bodies, and Lives, in the defence of Chriſt his Evangel, Liberties of
'Our Country, Miniſtration of Juſtice, and Puniſhment of Iniquity,
'againſt all Enemies within this Realm, or without, as We deſire Our
'God to be a ſtrong and merciful Defender to Us in the day of Our
'Death, and coming of Our Lord Jeſus Chriſt; to whom, with the
'Father and the Holy Spirit, be all Honour and Glory eternally.

'Like-as many Acts of Parliament not only in general do abrogate,
'annul, and reſcind all Laws, Statutes, Acts, Conſtitutions, Canons
'Civil or Municipal, with all other Ordinances and practick Penalties
'whatſoever, made in prejudice of the True Religion, and Profeſſors
'thereof; or of the True Kirk Diſcipline, Juriſdiction, and freedom
'thereof; or in favours of Idolatry and Superſtition: Or of the Papi-
'ſtical Kirk, as *Act.* 3. *Act.* 31. *Parl.* 1. *Act.* 23. *Parl.* 11. *Act.* 114.
'*Parl.* 12. of King *James* the *6th.* That Papiſtry and Superſtition
'may be utterly ſuppreſſed, according to the intention of the Acts of
'Parliament reported in *Act.* 5. *Parl.* 20. King *James* the *6th.* And
'to that end they ordained all Papiſts and Prieſts to be puniſhed by
'manifold Civil and Eccleſiaſtical Pains, as Adverſaries to God's True
'Religion preached, and by Law eſtabliſhed within this Ream, *Act.* 24.
'*Parl.* 11. King *James* the *6th*, as common Enemies to all Chriſtian
'Government, *Act.* 18. *Parl.* 16. King *James* the *6th*, as Rebellers
'and Gainſtanders of Our Soveraign Lord's Authority, *Act.* 47.
'*Parl.* 3. K. *James* 6. and as Idolaters, *Act.* 104. *Parl.* 7. K. *James* 6.
'but alſo in particular, (by and attour the Confeſſion of Faith) do
'aboliſh and condemn the Pope's Authority and Juriſdiction out of

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'this Land, and ordains the Mainteiners thereof to be puniſhed, *Act.* 2. 'Parl. 1. *Act* 51. *Parl.* 3. *Act* 106. *Parl.* 7. *Act* 114. *Parl.* 12. of *K.* 'James 6. do condemn the Pope's erroneous Doctrine, or any other 'erroneous Doctrine repugnant to any of the Articles of the true and 'Chriſtian Religion publickly preached, and by Law eſtabliſhed in this 'Realm; and ordains the Spreaders or Makers of Books or Libels, or 'Letters or Writs of that nature, to be puniſhed: *Act* 46. *Parl.* 3. *Act* '106. *Parl.* 7. *Act* 24. *Parl.* 11. *K. Jam.* 6. do condemn all Baptiſm 'conform to the Pope's Kirk, and the Idolatry of the Maſs; and or- 'dains all Sayers, wilful Hearers, and Concealers of the Maſs, the Main- 'teiners and Reſetters of the Prieſts, Jeſuites, traffiquing Papiſts to 'be puniſhed without any exception or reſtriction; *Act* 5. *Parl.* 1. '*Act* 120. *Parl.* 12. *Act* 164. *Parl.* 13. *Act.* 193. *Parl.* 14. *Act.* 1. 'Parl. 19. *Act.* 5. *Parl.* 20. King *James* 6. do condemn all Erro- 'neous Books and Writs containing Erroneous Doctrine againſt the 'Religion preſently profeſſed, or containing Superſtitious Rites and 'Ceremonies Papiſtical, whereby the People are greatly abuſed; and 'ordains the home-bringers of them to be puniſhed, *Act.* 25. *Parl.* 11. 'K. *Jam.* 6. do condemn the Monuments and Dregs of by-gane Ido- 'latry; as going to Croſſes, obſerving the Feſtival Days of Saints, and 'ſuch other Superſtitious and Papiſtical Rites, to the diſhonour of 'God, contempt of true Religion, and foſtring of great Errors among 'the People, and ordains the uſers of them to be puniſhed for the 'ſecond fault as Idolaters; *Act.* 104. *Parl.* 7. *K. Jam.* 6.

'Like-as many Acts of Parliament are conceived for maintenance 'of God's true and Chriſtian Religion, and the Purity thereof, in 'Doctrine and Sacraments of the true Church of God, the Liberty 'and Freedom thereof, in her National, Synodal Aſſemblies, Preſ- 'byteries, Seſſions, Policy, Diſcipline, and Juriſdiction thereof, as that 'Purity of Religion, and Liberty of the Church was uſed, profeſſed, 'exerciſed, preached and confeſſed according to the Reformation of 'Religion in this Realm. As for inſtance: *Act.* 99. *Parl.* 7. *Act.* 23. 'Parl. 11. *Act.* 114. *Parl.* 12. *Act.* 160. *Parl.* 13. *K. Jam.* 6. ratified 'by *Act.* 4. *K. Charles.* So that *Act* 6. *Parl.* 1. and *Act.* 68. *Parl.* 6. of 'K. *Jam.* 6. in the Year of God 1579, declares the Miniſters of the 'bleſſed Evangel, whom God of his Mercy had raiſed up, or hereaf- 'ter ſhould raiſe, agreeing with them that then lived in Doctrine and 'Adminiſtration of the Sacraments, and the People that profeſſed 'Chriſt, as he was then offered in the Evangel, and doth communi- 'cate with the holy Sacraments (as in the Reformed Kirks of this 'Realm they were preſently adminiſtred) according to the Confeſſion 'of Faith, to be the true and holy Kirk of Chriſt Jeſus within this 'Realm, and decerns and declares all and ſundry, who either gainſays 'the Word of the Evangel, received and approved as the heads of the 'Confeſſion of Faith, profeſſed in Parliament in the Year of God 1560, 'ſpecified alſo in the firſt Parliament of K. *Jam.* 6. and ratified in this 'preſent Parliament, more particularly do ſpecify; or that refuſes the 'Adminiſtration of the holy Sacraments as they were then miniſtrated, 'to be no Members of the ſaid Kirk within this Realm, and true Reli- 'gion preſently profeſſed, ſo long as they keep themſelves ſo divided 'from the ſociety of Chriſt's Body. And the ſubſequent *Act* 69. *Parl.* 6. 'K. *James* 6. declares, That there is no other face of Kirk, nor o- 'ther face of Religion, than was preſently at that time by the favour of

An. 1638. ‘of God eſtabliſhed within this Realm, which therefore is ever ſtiled ‘God's true Religion, Chriſt's true Religion, the true and Chriſtian Re‘ligion, and a perfect Religion. Which by manifold Acts of Parliament, ‘all within this Realm are bound to profeſs to ſubſcribe the Articles ‘thereof, the Confeſſion of Faith, to recant all Doctrine and Errors ‘repugnant to any of the ſaid Articles, *Act.* 4. & 9. *Parl.* 1. *Act.* 45, ‘46, 47. *Parl.* 3. *Act.* 71. *Parl.* 6. *Act* 106. *Parl.* 7. *Act* 24. *Parl.* 11. ‘*Act* 123. *Parl.* 12. *Act* 194. & 197. *Parl.* 14. of King *James* 6. And ‘all Magiſtrates, Sheriffs, *&c.* on the one part, are ordained to ſearch, ‘apprehend, and puniſh all Contraveners: For inſtance, *Act* 5. *Parl.* ‘1. *Act* 104. *Parl.* 7. *Act* 25. *Parl.* 11. K. *Jam.* 6. And that, not‘withſtanding of the King's Majeſty's Licences on the contrary, which ‘are diſcharged, and declared to be of no force, in ſo far as they tend ‘in any ways to the prejudice and hindrance of the execution of the ‘Acts of Parliament againſt *Papiſts*, and Adverſaries of the true Reli‘gion, *Act* 106. *Parl.* 7. K. *James* 6. On the other part, in *Act* 47. ‘*Parl.* 3. K. *James* 6. it is declared and ordained, Seeing the Cauſe of ‘God's true Religion, and his Highneſs's Authority are ſo joined, as ‘the hurt of the one is common to both; and that none ſhall be re‘puted as loyal and faithful Subjects to our Sovereign Lord, or his Au‘thority, but be puniſhable as Rebellers and Gainſtanders of the ſame, ‘who ſhall not give their Confeſſion, and make Profeſſion of the ſaid ‘true Religion; and that they who after defection ſhall give the Con‘feſſion of their Faith of new, they ſhall promiſe to continue therein ‘in time coming, to maintain our Soveraign Lord's Authority, and ‘at the uttermoſt of their Power to fortifie, aſſiſt and maintain the ‘true Preachers and Profeſſors of Chriſt's Religion, againſt whatſoever ‘Enemies and Gainſtanders of the ſame: and namely, againſt all ſuch ‘of whatſoever Nation, Eſtate, or Degree they be of, that have joined ‘and bound themſelves, or have aſſiſted, or aſſiſts, to ſet forward and ‘execute the cruel Decrees of *Trent*, contrary to the Preachers and ‘true Profeſſors of the Word of God, which is repeated word by word ‘in the Articles of pacification at *Pearth* the 23*d Feb.* 1572, approved ‘by Parliament the laſt of *April* 1573, ratified in Parliament 1578, ‘and related *Act* 123. *Parl.* 12. of King *James* 6. with this addition, ‘*That they are bound to reſiſt all treaſonable Uproars and Hoſtilities raiſed ‘againſt the true Religion, the King's Majeſty and the true Profeſſors.*

‘Like-as all Lieges are bound to maintain the Kings Majeſty's Roi‘al Perſon and Authority, the Authority of Parliaments, without ‘which neither any Laws or lawful Judicatories can be eſtabliſhed, *Act* ‘130. *Act* 131 *Parl.* 8. K. *James* 6. and the Subjects Liberties, who ‘ought only to live and be governed by the Kings Laws, the common ‘Laws of this Realm allanerly, *Act* 48. *Parl.* 3. K. *James* 1. *Act* 79. ‘*Parl.* 6. K. *James* 4. repeated in *Act* 131. *Parl.* 8. K. *James* 6. which ‘if they be innovated or prejudged, the Commiſſion anent the Uni‘on of the two Kingdoms of *Scotland* and *England*, which is the ſole ‘*Act* of 17. *Parl.* K. *James* 6. declares ſuch confuſion would enſue, as ‘this Realm could be no more a free Monarchy: becauſe by the fun‘damental Laws, ancient Priviledges, Offices and Liberties of this King‘dom, not only the Princely Authority of his Majeſty's Roial Deſcent ‘hath been theſe many Ages maintained, alſo the Peoples ſecurity of ‘their Lands, Livings, Rights, Offices, Liberties and Dignities preſer‘ved. And therefore for the preſervation of the ſaid true Religion,

Laws

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'Laws and Liberties of this Kingdom, it is ſtatute by *Act* 8. *Parl.* 1. 'repeated in *Act* 99. *Parl.* 7. ratified in *Act* 23. *Parl.* 11, & 14 *Act* 'of K. *James* 6. & 4. *Act* of King *Charles*, *That all Kings and Princes at* 'their Coronation and Reception of their Princely Authority, ſhall make 'their faithful Promiſe by their Solemn Oath in the Preſence of the Eternal 'God, That during the whole time of their Lives they ſhall ſerve the ſame 'Eternal God to the utmoſt of their Power, according as he hath required 'in his moſt holy Word, contained in the Old and New Teſtaments, and 'according to the ſame Word ſhall maintain the true Religion of Chriſt Je- 'ſus, the Preaching of his holy Word, the due and right Miniſtration of the 'Sacraments now received and preached within this Realm (according to 'the Confeſſion of Faith immediatly preceding;) and ſhall aboliſh and gain- 'ſtand all falſe Religion contrary to the ſame; and ſhall rule the People com- 'mitted to their Charge according to the Will and Commandment of God 'revealed in his foreſaid Word, and according to the lowable Laws and 'Conſtitutions received in this Realm, no ways repugnant to the ſaid Will 'of the Eternal God; and ſhall procure, to the utmoſt of their Power, to the 'Kirk of God, and whole Chriſtian People, true and perfect Peace in all 'time coming: And that they ſhall be careful to root out of their Empire, 'all Heretick and Enemies to the true Worſhip of God, who ſhall be Con- 'victed by the true Kirk of God of the foreſaid Crimes. Which was alſo 'obſerved by his Majeſty at his Coronation in *Edinburgh* 1633, as may 'be ſeen in the Order of the Coronation.

'In obedience to the Commands of God, conform to the practice of 'the Godly in former times, and according to the laudable Example of 'our worthy and religious Progenitors, and of many yet living amongſt 'us, which was warranted alſo by Act of Council, commanding a Ge- 'neral Band to be made and ſubſcribed by his Majeſty's Subjects of all 'Ranks, for two Cauſes: one was, for defending the true Religion, 'as it was then reformed, and is expreſſed in the Confeſſion of Faith 'above written, and a former large Confeſſion eſtabliſhed by ſundry 'Acts of lawful General Aſſemblies, and of Parliament, unto which it 'hath relation, ſet down in publick Catechiſms, and which had bin 'for many Years with a bleſſing from Heaven Preached and Profeſſed 'in this Kirk and Kingdom, as God's undoubted Truth, grounded only 'upon his written Word: The other Cauſe was for maintaining the 'King's Majeſty, his Perſon and Eſtate; The true Worſhip of God and 'the King's Authority being ſo ſtraightly joined, as that they had the 'ſame Friends and common Enemies, and did ſtand and fall together. 'And finally being convinced in our minds, and confeſſing with our 'mouths, that the preſent and ſucceeding Generations in this Land are 'bound to keep the foreſaid National Oath and ſubſcription inviola- 'ble,

'We Noblemen, Barons, Gentlemen, Burgeſſes, Miniſters, and Com- 'mons under ſubſcribing, conſidering divers times before, and eſpe- 'cially at this time, the danger of the true Reformed Religion, of the 'King's Honour, and of the publick Peace of the Kingdom, by the 'manifold Innovations and Evils generally contained, and particularly 'mentioned in our late Supplications, Complaints, and Proteſtations, 'Do hereby profeſs, and before God, his Angels, and the World ſolemn- 'ly declare, that with our whole Hearts we agree and reſolve all the 'days of our life conſtantly to adhere unto, and to defend the fore- 'ſaid true Religion, and forbearing the practice of all Novations,

'already,

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'already introduced in the matters of the Worſhip of God, or appro-
'bation of the Corruptions of the publick Government of the Kirk,
'or civil Places and Power of Kirkmen, till they be tried and allow-
'ed in free Aſſemblies, and in Parliaments, to labour by all means
'lawful to recover the Purity and Liberty of the Goſpel, as it was
'eſtabliſhed and profeſſed before the foreſaid Novations: And becauſe
'after due examination We plainly perceive, and undoubtedly be-
'lieve, that the Innovations and Evils contained in our Supplications,
'Complaints and Proteſtations have no warrant of the Word of God,
'are contrary to the Articles of the foreſaid Confeſſions, to the inten-
'tion and meaning of the bleſſed Reformers of Religion in this Land,
'to the above written Acts of Parliament, and do ſenſibly tend to the
'reeſtabliſhing of the Popiſh Religion and Tyranny, and to the ſubver-
'ſion and ruin of the true Reformed Religion, and of our Liberties,
'Laws and Eſtates; We alſo declare, that the foreſaid Confeſſions are to
'be interpreted, and ought to be underſtood of the foreſaid Novations
'and Evils, no leſs than if every one of them had bin expreſſed in the
'foreſaid Confeſſions; and that we are obliged to deteſt and abhor
'them, amongſt other particular Heads of Papiſtry abjured therein;
'And therefore from the knowledge and Conſcience of our Duty to
'God, to our King and Country, without any worldly reſpect or in-
'ducement, ſo far as humane infirmity will ſuffer, wiſhing a further
'meaſure of the Grace of God for this effect, We promiſe and ſwear
'by the great Name of the Lord our God, To continue in the profeſ-
'ſion and obedience of the foreſaid Religion; That we ſhall defend
'the ſame, and reſiſt all theſe contrary Errours and Corruptions, ac-
'cording to our Vocation, and to the utmoſt of that power that God
'hath put into our hands all the days of our life. And in like manner
'with the ſame Heart we declare before God and Men, That we have
'no intention or deſire to attempt any thing that may turn to the
'diſhonour of God or the diminution of the King's Greatneſs and Au-
'thority; but on the contrary we promiſe and ſwear, That we ſhall to
'the utmoſt of our power, with our Means and Lives, ſtand to the de-
'fence of our dread Soveraign the King's Majeſty, his Perſon and Au-
'thority, in the defence and preſervation of the foreſaid true Religi-
'on, Liberties and Laws of the Kingdom; As alſo to the mutual De-
'fence and Aſſiſtance, every one of us of another, in the ſame Cauſe
'of maintaining the true Religion, and his Majeſties Authority, with
'our beſt Counſels, our Bodies, Means and whole Power, againſt all
'ſorts of Perſons whatſoever. So that whatſoever ſhall be done to
'the leaſt of us for that Cauſe, ſhall be taken as done to us all in ge-
'neral, and to every one of us in particular. And that we ſhall neither
'directly nor indirectly ſuffer our ſelves to be divided, or withdrawn
'by whatſoever Suggeſtion, Combination, Allurement, or Terror from
'this bleſſed and loyal Conjunction, nor ſhall caſt in any Let or Impe-
'diment that may ſtay or hinder any ſuch Reſolution, as by common
'conſent ſhall be found to conduce for ſo good ends: but on the con-
'trary ſhall by all lawful means, labour to further and promove the
'ſame. And if any ſuch dangerous and diviſive Motion be made to
'Us by Word or Writ, We and every one of Us, ſhall either ſuppreſs
'it, or (if need be) ſhall incontinently make the ſame known, that it
'may be timouſly obviated. Neither do we fear the foul Aſperſions
'of *Rebellion, Combination*, or what elſe our Adverſaries from their Craft

'and

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'and Malice would put upon Us, ſeeing what We dō is ſo well war-
'ranted, and ariſeth from an unfeigned deſire to maintain the True
'Worſhip of God, the Majeſty of Our King, and the Peace of the
'Kingdom, for the common happineſs of Our ſelves and Poſterity.
'And becauſe We cannot look for a Bleſſing from God upon Our
'Proceedings, except with Our Profeſſion and Subſcription, We join
'ſuch a Life and Converſation as beſeemeth Chriſtians, who have re-
'newed their Covenant with God; We therefore faithfully promiſe,
'for Our Selves, Our Followers, and all other under Us, both in pub-
'lick, in Our particular Families, and perſonal Carriage, to endea-
'vour to keep Our ſelves within the bounds of Chriſtian Liberty, and
'to be good Examples to others of all Godlineſs, Soberneſs, and
'Righteouſneſs, and of every Duty We owe to God and Man. And
'that this Our Union and Conjunction may be obſerved without vio-
'lation, We call the Living God, the Searcher of Our Hearts, to
'Witneſs, who knoweth this to be Our ſincere Deſire, and unfeigned
'Reſolution, as we ſhall anſwer to *Jeſus Chriſt* in the great Day, and
'under the pain of God's everlaſting Wrath, and of Infamy, and of
'loſs of all Honour and Reſpect in this World: *Moſt humbly beſeeching*
'*the Lord to ſtrengthen Us by his Holy Spirit for this end, and to bleſs Our*
'*Deſires and Proceedings with a happy Succeſs, that Religion and Righte-*
'*ouſneſs may flouriſh in the Land, to the Glory of God, the Honour of Our*
'*King, and Peace and Comfort of Us all.*

'In Witneſs whereof We have ſubſcribed with Our Hands all the
'Premiſes, *&c.*

This Covenant was no ſooner framed, but it ſo took, as it was preſently ſworn, firſt, at *Edinburgh*, in the Month of *February* 1638 Scotiſh ſtyle, And then ſent every-where through the Country, to be ſubſcribed according the Example of thoſe in *Edinburgh.*

It is obſerved in the King's Declaration, That whereas the Band annexed to the former Confeſſion, was made in defence of the King's Authority and Perſon, with their Fortunes, Bodies, and Lives, in defence of the Goſpel of Chriſt, and Liberties of the Kingdom, *&c.* But to this Covenant *(ſaith the Declaration)* they have added a mutual Defence of one another, and made againſt all Perſons whatſoever, who ſhall oppoſe them in their Courſes, not excepting the King himſelf; neither was the King's conſent to this their New Covenant ever granted, nor ever ſo much as once asked. *K. D. p. 7.*

The Proclamation dated *Feb.* 19, and publiſhed at *Sterling*, was ſo far from giving ſatisfaction, that it produced greater confuſion; for it met with a Proteſtation ſent from thoſe of the *Tables*, who notwithſtanding the Proclamation, continued to ſit. Whereupon the Council appointed a ſolemn Meeting to be upon the firſt of *March* at *Sterling*, for the examining of Things, that they might ſend their Advice to Court. When the firſt of *March* came, the Lord Chancellor ſent his Excuſe, the reſt of the Biſhops declined to come, except Biſhop *Brechin:* Nevertheleſs the Lords of the Council went on, and continued conſulting and debating four days together; the Iſſue of which was, to ſend Sir *John Hamilton*, the Juſtice Clerk, to the King with Inſtructions, to this effect.

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Inſtructions from His Majeſty's Council to the Lord Juſtice-Clerk, whom they have ordained to go to Court for His Majeſty's Service.

'IN the firſt place you are to receive from the Clerk of the Council, 'all the Acts paſt ſince Our meeting upon the *1ſt* of *March* inſtant.

'*Item*, You have to repreſent to his Majeſty, That the Diet of 'Council was appointed to be ſolemnly kept, by the Advice of the 'Lord Chancellor, and Remanant Lords of the Clergy being at '*Edinburgh* for the time, who aſſured Us, That they ſhould keep the 'Diet preciſely; but at Our meeting at *Sterling*, We received a Let-'ter of Excuſe from the Lord Chancellor, which forces Us to proceed 'without his Lordſhips preſence, or any others of the Lords of the 'Clergy, except the Biſhop of *Brechin*, who attended Us three days, 'but removed before the cloſing of Our Opinions anent the Buſi-'neſs.

Item, 'That immediately after We had reſolved to direct you with 'a Letter of Truſt to his Majeſty, We did ſend Our Letter to the Lord 'Chancellor, acquainting him with Our Proceedings, and deſiring him to 'conſider thereof; and if he approved the ſame, to Sign them, and to 'cauſe the Remanant Lords of the Clergy neareſt unto him, and namely 'the Biſhop of *Brechine*, who was an Ear and Eye-Witneſs to Our 'Conſultations, to ſign the ſame, and by their Letter to His Majeſty, 'to ſignify their Approbation thereof; or if his Lordſhip did find 'ſome other way more convenient for His Majeſty's Honour, and the 'Peace of the Country, that his Lordſhip by his Letter to the Lord 'Treaſurer or Privy-Seal, would acquaint them therewith, to the 'effect they might convene the Council for conſulting thereabout.

Item, 'That you ſhew His Majeſty, That His Majeſty's Councils, all 'in one Voice, find, That the Cauſes of the general Combuſtions in 'the Country, are the fears apprehended of Innovation of Religion 'and Diſcipline of the Kirk, (eſtabliſhed by the Laws of the King-'dom) by occaſion of the *Service-Book*, Book of *Canons*, and *High-'Commiſſion*, and from the Introduction thereof, contrary to, or with-'out Warrant of the Laws of the Kingdom.

Item, 'You are to preſent to His Majeſty, Our humble Opinion, 'that ſeeing, and as We conceive the *Service-Book*, Book of *Canons*, 'and *High-Commiſſion* (as it is ſet down) are the occaſion of this 'Combuſtion; and that the Subjects offer themſelves upon peril of 'their Lives, to clear, That the ſaid *Service-Book*, and others afore-'ſaid, contain divers Points contrary to the Religion preſently pro-'feſſed, and Laws of the Kingdom, in matter and manner of Intro-'duction, that the Lords think it expedient that it be repreſented to 'his Majeſty's gracious Conſideration, if His Majeſty may be pleaſed 'to declare, as an Act of His ſingular Juſtice, That He will take Trial 'of His Subjects Grievances, and the Reaſons thereof, in his own 'Time, and in His own Way, according to the Laws of this King-'dom; and that His Majeſty may be pleaſed graciouſly to declare, 'That in the mean time he will not preſs nor urge His Subjects there-'with, notwithſtanding any Act or Warrant made in the contrary.

'And

14 *Caroli.*

'And in caſe his Majeſty ſhall be graciouſly pleaſed to approve of 'our humble Opinions, you are thereafter to preſent to his Majeſty's 'gracious and wiſe Conſideration, if it ſhall not be fitting to conſult 'his Majeſty's Council, or ſome ſuch of them as he ſhall be pleaſed to 'call to himſelf, or allow to be ſent from the Table, both about the 'Time and way of doing it.

'And if his Majeſty (as God forbid) ſhall diſlike of what we 'have conceived moſt conducing to his Majeſty's Service, and Peace of 'the Kingdom, you are to urge, by all the Arguments you can, That 'his Majeſty do not determine upon any other Courſe, until ſome at 'leaſt of his Council from this, be heard to give the Reaſons of their 'Opinions: And in this caſe you are likewiſe to preſent to his Ma-'jeſty's Conſideration, if it ſhall not be fitting and neceſſary to call 'for his Informers, together with ſome of his Council, that in his 'own preſence he may hear the Reaſons of both Informations fully 'debated.

'You ſhall likewiſe ſhew his Majeſty, That this Council having 'taken to their Conſideration what further was to be done for com-'poſing and ſetling of the preſent Combuſtion within that Kingdom, 'and diſſipating of the Convocations and Gatherings within the 'ſame, ſeeing Proclamations are already made and publiſhed, diſ-'charging all ſuch Convocations and unlawful Meetings; the Lords 'after debating, find they can do no further than is already done 'herein, until his Majeſty's Pleaſure be returned to this our humble 'Remonſtrance.

Signed,

Traquair,
Roxborough,
Winton,
Perth,
Wigton,
Kinghorne,
Lauderdale,
Southesk,
Angus,
Lorn,
Down,
Elphinſton,
Napier,
J. Hay,
Tho. Hope,
Ja. Carmichel,
W. Elphinſton.

Theſe Inſtructions being tranſmitted to the Lords of the Clergy, were returned ſigned as follows.

St. *Andrews.*
Da. Edin,
Jo. Dumblanen,
Tho. Gallovid,
Wal. Brechinen.

Theſe Inſtructions were ſeconded by a private Letter to the King, ſigned by *Traquair* and *Roxborough*, to the effect following.

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Moſt Sacred Soveraign,

ALthough the miſerable Eſtate of this poor Kingdom, will be ſufficiently underſtood by your Majeſty from this Gentleman *Sir* John Hamilton's *Relation; yet we conceive our ſelves in a ſpecial manner bound and obliged to repreſent what we conceive does ſo nearly concern your Majeſty's Honour and Service; and therefore give us leave truly and faithfully to tell your Majeſty, That ſince the laſt Proclamation, the fear of Innovation of Religion is ſo apprehended by all ſorts of Subjects, from all Corners of this Kingdom, that there is nothing to be ſeen here but a general Combuſtion, and all Men ſtrengthening themſelves by ſubſcribing Bands, and by all other means, for refuſing of that which they ſeem ſo much to fear. This is come to ſuch a height, and daily like to increaſe more and more, that we ſee not a probability of Force or Power within this Kingdom to repreſs this Fury, except your Majeſty may be graciouſly pleaſed, by ſome Act of your own, to ſecure them of that which they ſeem ſo much to apprehend by the inbringing of the Books of* Common-Prayer, *and* Canons.

The way which the Subjects have taken, and daily go about in the proſecution of their Buſineſs is inexcuſable, and no ways agreeable to the Duty of good Subjects. But your Majeſty is wiſely to conſider what is the beſt and ſafeſt courſe for your own Honour, and Peace of your Government: And ſince Religion is pretended to be the Cauſe of all, if it ſhall not be a ſafe Courſe to free them at this time from Fears, by which means the wiſer ſort will be ſatisfied, and ſo your Majeſty enabled, with leſs pain or trouble, to overtake the Inſolencies of any who ſhall be found to have kicked againſt Authority.

We are the rather moved at this time to be of this Opinion, That having found it the Opinion, not only of thoſe to whom your Majeſty wrote in particular, (except of the Marqueſs of Huntley, *who as yet is not come from the North) but of moſt of the Noblemen, and Men of reſpect within this Kingdom. We find few or none well ſatisfied with the Buſineſs, or to whom we dare adviſe your Majeſty to truſt in the proſecution thereof; and if any have or ſhall inform your Majeſty to the contrary, give us leave humbly to intreat your Majeſty to be pleaſed to call them before your Self, that in our preſence you may hear the Reaſons of both Informations fully debated.*

So praying God to grant your Majeſty many happy days, and full contentment in all your Roial Deſigns, we humbly take our leave, and reſt,

Sterling, *March* 5. 1638.

Your Majeſty's humble Servants, and faithful Subjects,

TRAQUAIRE,

ROXBOROUGH.

There was alſo a publick Letter written by the Council to the Marqueſs, dated at *Sterling* the 5th of *March*, ſent by Sir *John Hamilton*, informing the Marqueſs, 'That they did find the Subjects Fears and 'Stirs to increaſe ſince the laſt Proclamation, and appointed the Coun-'cil to meet then to conſult upon the growth of publick Evils, and Remedies

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'Remedies thereof. After the Council had ſpent four days in advi-
'ſing, they reſolved to ſend Sir *John Hamilton*, one of their number,
'with a Letter from them to his Majeſty, to whom they have imparted
'their Opinions and Reaſons of the ſame Publick Ills, and Remedies of
'the ſame, to be repreſented to his Sacred Majeſty, becauſe the Buſi-
'neſs is ſo weighty and important, that in their Opinion the Peace of
'the Country was never in ſo great hazard; they have thought fit to
'recommend the Buſineſs to your Lordſhips conſideration.

Signed by the ſame Privy-Councellors, whoſe Hands were to Sir *John Hamilton*'s Inſtructions.

After Sir *John Hamilton*'s arrival at the Court at *Whitehall*, and having preſented to his Majeſty what was committed to his truſt and care, his Majeſty conſulted with his Inward Council, as to the Scotiſh Affairs, and reſolved to ſend Marqueſs *Hamilton* as High-Commiſſioner to *Scotland* for that Service, hoping by ſuch an Authority to quiet the Fury of the People; and Sir *John Hamilton* was immediately diſpatched again to *Scotland*, to give notice of the King's Reſolution, and that his Majeſty's Pleaſure ſhould be further known when his High-Commiſſioner came down.

The Covenanters not long after the Lord Juſtice Clerk his arrival at Court, made their Application to the *Scotiſh* Lords then at Court, complaining of the Privy-Council for harſh uſage; and withal ſent up their Grievances, ſigned by *Rothes*, *Caſſils*, *Montroſe*, to the effect following.

Articles for the preſent Peace of the Kirk and Kingdom of Scotland.

The eight Articles of Grievances propoſed by the Covenanters.

'IF the Queſtion were about ſuch Matters as did come within the
'compaſs of our own Power, we would be aſhamed to be impor-
'tunate, and ſhould be very eaſily ſatisfied, without the ſmalleſt trou-
'ble to any; but conſidering that they are the Matters of *God's Ho-*
'nour, of the Kingdom of *Chriſt*, and the Peace of our *Souls*, againſt
'the *Myſtery of Iniquity*, which we clearly perceive to have bin un-
'ceſſantly working in this Land ſince the *Reformation*, to the *ruin of*
'True Religion in the end: it cannot ſtand with our Duty to God, and
'to our King, to our Selves and Poſterity, to crave or *be content with*
'leſs than that which the Word of God, and our Confeſſion of Faith
'doth allow, and which may againſt our Fears eſtabliſh Religion af-
'terwards.

1. 'The *diſcharging* of the *Service-Book*, the Book of *Canons*, and
'of the late *High Commiſſion*, may be *a part of the ſatisfaction* of our
'humble Supplications, and juſt Complaints; which therefore we
'ſtill humbly deſire: but that can neither be a perfect Cure for our
'preſent Evils, nor can it be a preſervation in time to come.

'When it is conſidered what hath bin the Troubles and Fears of his
'Majeſty's moſt Loial Subjects from the *High Commiſſion*, what is the
'Nature and Conſtitution of that Judicatory; how prejudicial it
'proves to the lawful Judicatory of the Kirk and Kingdom; how far

'it

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'it endangers the Conſciences, Liberties, Eſtates, and Perſons of all the 'Leiges, and how eaſily and far more contentedly all the Subjects may 'be kept in Order and Obedience to his Majeſty's Juſt Laws, *without 'any terror of that kind*, We look that his Majeſty's Subjects, who have 'uſed to obey according to the Laws, ſhall *be altogether delivered from 'the High-Commiſſion*, as from a Yoak and Burden, which they feel and 'fear to be more heavy than they ſhall be ever able to bear.

3. 'Remembring by what ways the *Articles of Perth* were introduced; how ſtrangely, and with what oppoſition they were carried 'in the Aſſembly; upon what Narrative they were concluded; how 'the *Ratification* in Parliament was not deſired by the Kirk, but earneſtly ſupplicated and proteſted againſt; how they have bin introductory of the *Service-Book*, whereof they are now become Members, and in their nature *make way for Popery*, &c. Whatſoever 'hath bin the Intentions of the Urgers, and withal, what Troubles 'and Diviſions they have cauſed theſe *twenty Years* in this *Kirk and 'Kingdom*; and what Jealouſies between the King's Majeſty and his 'Subjects, without any Spiritual Profit or Edification at all; as we can 'ſee no reaſon why they ſhould be urged by Authority, ſo can we not 'find but we ſhall be more unable to digeſt them than in the beginning, when we had not as yet taſted and known how bitter and unwholſome they were.

But for further ſatisfaction, ſee the reſt of theſe Articles in *Hamilton's Memoires*, p. 40, 41.

Before the Marqueſs begun his Journey from *London*, his Majeſty called to him the Arch-Biſhop of *Canterbury* and St. *Andrews*, alſo the Biſhop of *Galloway*, *Brechin*, and *Roſs*, into his Cloſet at *Whitehall*, and the King declared unto them the choice he had made of the Marqueſs, whom he intended to ſend to *Scotland*, with the Character of *High-Commiſſioner*, for eſtabliſhing the Peace of the Country, and the Good of the Church. And upon the *7th* of *May*, Letters were ſent into *Scotland*, giving notice of the King's Reſolution; and the Marqueſs wrote to his Friends and Dependors to meet him the *5th* of *June*.

May the *16th*, the Marqueſs received his Inſtructions to the effect following.

May 16. The ſubſtance of the Marqueſs's Inſtructions relating to his Commiſſion.

C. R.

'BEfore you publiſh the Declaration which We have ſigned, you 'ſhall require all the Council to ſign it; and if you find that it 'may conduce to Our Service, you ſhall make all the Council ſwear to 'give their beſt aſſiſtance in the execution of the ſame; but this of 'putting them to their Oaths, We leave to your diſcretion to do as you 'ſhall find occaſion: But if you ſhall find it fit to put them to their 'Oaths, thoſe that refuſe, muſt be diſmiſſed the Council till Our further Pleaſure be known.

'We give you power to cauſe the Council to ſit in whatſoever place 'you ſhall find moſt convenient for Our Service, *Edinburgh* only excepted, and to change the meeting thereof as often as occaſion ſhall 'require.

'You

IAMES DUKE of HAMILTON and
Castle herauld, Marquis of Clidisdale, Earle
of Arran and Cambridge Lord of Aven and
Innerdale, Master of the Horse to his Maty King
Charls the first and one of his Maty most Honble
Privy Councell and Knight of the most Noble Order of
the Garter Borne Anno 1606 Suffered for his Loyalty 1648.

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'You may labour to prepare any of the Refractory Perſons to con-
'ceive aright of Our Declaration before it be publiſhed, ſo that it
'be privately and underhand.

'If any Proteſtation be made againſt Our Declaration, the Prote-
'ſters muſt be reputed Rebels, and you are to labour to apprehend
'the chiefeſt of them.

'If Petitions be preſented, to demand further ſatisfaction than that
'we have already given by Our Declaration, you are to receive them,
'and to give them a *bold Negative*, both in reſpect of the Matter and
'the Form, as being preſented from a Body which you are no ways to
'acknowledg.

'You muſt admit of no Petition againſt the five Articles of *Perth*,
'but for the preſent you are not to preſs the exact execution of
'them.

'When-ever the Town of *Edinburgh* ſhall depart from the *Cove-*
'*nant*, and petition for Our Favour, We will, That you bring back
'the Council and Seſſion to it.

'All Acts of Council that enjoin the uſe of the New *Service-Book*
'are to be ſuſpended, and to be of no force hereafter.

'You are to cauſe inſert ſix weeks in Our Declaration for the deli-
'very up of the *Covenant*, and if you find cauſe, leſs.

'You ſhall declare, That if there be no ſufficient Strength within
'the Kingdom to force the Refractory to Obedience, Power ſhall
'come from *England*, and that my Self will come in Perſon with them,
'being reſolved to hazard my Life, rather than to ſuffer Authority to
'be contemned.

'You may likewiſe declare, (if you find cauſe) That as We never
'did, ſo by God's Grace We never will ſtop the courſe of Juſtice by
'any private Directions of Ours, but will leave Our Lords of Seſſion,
'and other Judges, to adminiſter Juſtice, as they will be anſwerable
'to God and Us.

'If you cannot (by the means preſcribed by Us) bring back the
'Refractory and Seditious to due Obedience, We do not only give
'you Authority, but command all Hoſtile Acts whatſoever to be uſed
'againſt them, they having deſerved to be uſed no otherwiſe by Us
'but as a Rebellious People: For the doing thereof, We will not
'only ſave you harmleſs, but account it as acceptable Service done
'Us.

And on the 20*th* of *May* he received his Commiſſion as followeth.

May 20. The King's Commiſſion to Marqueſs *Hamilton*, under the Great Seal of *England*.

CArolus Dei Gratia Magnæ Britanniæ, Franciæ, & Hiberniæ Rex, Fideique Defenſor: Omnibus probis hominibus ſuis ad quos preſentes literæ pervenerint, ſalutem. Sciatis nos conſiderantes magnos in hoc Regno noſtro Scotiæ non ita pridem exortos tumultus, ad quos quidem componendos, multiplices Regiæ noſtræ voluntatis declarationes promulgavimus, quæ tamen minorem ſpe noſtra effectum hactenus ſortitæ ſunt: Et nunc ſtatuentes, ex pio erga dictum antiquum Regnum noſtrum affectu, ut omnia gratioſè ſtabiliantur & inſtaurentur, quod (per abſentiam noſtram) non alia ratione commodius effici poteſt, quam fideli aliquo Delegato conſtituto, cui poteſtatem credere poſſumus tumultus ejuſmodi conſopiendi, aliaque officia preſtandi, quæ in bonum & commodum dicti antiqui Regni noſtri

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noſtri eidem Delegato noſtro imperare nobis videbitur: Cumq; ſatis compertum habeamus obſequium, deligentiam, & fidem prædilecti noſtri conſanguinei & conſiliarii Jacobi Marchionis Hamiltonii, Comitis Arraniæ & Cantabrigiæ, Domini Aven & Innerdail, &c. eundemque ad imperata noſtra exequenda ſufficienter inſtructum eſſe: Idcirco feciſſe & conſtituiſſe, tenoreque præſentium facere & conſtituere præfatum prædilectum noſtrum conſanguineum & conſiliarium Jacobum Marchionem de Hamilton, &c. noſtrum Commiſſionarium ad effectum ſubſcriptum: Cum poteſtate dicto Jacobo Marchioni de Hamilton, &c. dictum Regnum noſtrum adeundi, Ibidemq; præfatos tumultus in dicto Regno componendi, aliaque officia a nobis eidem committenda in dicti Regni noſtri bonum & commodum ibi præſtandi: Eoque conſilium noſtrum quibus locis, & temporibus ei viſum fuerit convocandi, ac rationem & ordinem in præmiſſis exequendis ſervandum declarandi & præſcribendi: Et quæcunque alia ad Commiſſionis hujus capita pro commiſſa ipſi fide exequenda, eandemque ad abſolutum finem perducendam, et proſequendam conferre poſſint tam in Conſilio quam extra Conſilium noſtro Nomine efficiendi & præſtandi: Idque ſimiliter & adeo liberè ac ſi Nos in Sacroſancta Noſtra Perſona ibidem adeſſemus. Et hac præſenti noſtra Commiſſione durante Noſtro Beneplacito duratura ac ſemper et donec eadem per nos expreſſe inhibeatur. In cujus rei teſtimonium præſentibus magnum Sigillum noſtrum apponi præcepimus. Apud caſtrum noſtrum de Windſore vigeſimo die menſis Maii, anno Domini milleſimo ſexcenteſimo trigeſimo octavo, et anno Regni noſtri decimo quarto.

Per Signatum manu S. D. N. Regis ſuprascriptum.

At the ſame time thoſe *Biſhops* who ſtayed in *Scotland*, ſent up their Complaints and Grievances alſo to ſuch Biſhops of *Scotland* as were at Court, to the effect following.

Articles of Information to Mr. Andrew Learmouth *for my Lord Arch-Biſhop of St.* Andrews, *the Biſhop of* Roſs, &c. *And in their abſence for my Lord Arch-Biſhop of* Canterbury *his Grace.*

The Biſhops Articles of Information to other Biſhops at *London.*

1. 'YOU ſhall ſhew their Lordſhips how they have changed the 'Moderator of the Preſbytery of *Edinburgh*, and are going 'on in changing all the Moderators in the Kingdom.

2. 'How they have abuſed Dr. *Ogſtone* the 9th of *May* in *Edin-'burgh*; Mr. *George Hannay* at *Torphichen* the 6th of *May*; Dr. *Lam-'mond* at *Marckinch* the 9th of *May*; Mr. *Robert Edward* at *Kirk-'michael*, whom *Kilkerni* is forced to entertain at his own Houſe.

3. 'That the Preſbytery of *Haddington* have given Impoſition of 'Hands to Mr. *John Ker's* Son to be his Colleague without the know-'ledge of the Biſhop; and likwiſe the Preſbytery of *Kircaldy* to Mr. 'John Gilleſpy's Son, to the Church of the *Weems*; and the Preſbytery 'of *Dumfrieze* to one Mr. *John Wyer* to the Church of *Morton*, within 'two miles of *Drumlanerick*; and that they of *Dumfermling* have ad-'mitted Mr. *Samuel Row* (a Miniſter baniſhed from *Ireland*) to be 'Helper to Mr. *Henry Macgill*; and they of *Aire* Mr. *Robert Blair* to 'be Helper to Mr. *William Annand*; and that the Town of *Dumfrieze* 'have made choice of Mr. *James Hamilton* to be their Miniſter; and

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'the Town of *Kirkudbright* one Mr. *John Macklannon*, all of them 'baniſhed from *Ireland*; and Mr. *Samuel Rutherford* is returned, and 'ſetled in his Place; and they intend to depoſe Mr. *John Trotter*, Mi-'niſter of *Darlinton*: and how they intended to uſe the Regents.

4. 'That the Council of *Edinburgh* have made choice of Mr. *Alex.* '*Henderſon* to be Helper to Mr. *Andrew Ramſey*, and intend to admit 'him without the Advice or Conſent of the Biſhop.

5. 'That the Miniſters of *Edinburgh* who have not ſubſcribed the 'Covenant are daily reviled and curſed to their faces, and their Sti-'pends are withheld, and not paid; and that all Miniſters who have 'not ſubſcribed, are in the ſame caſe and condition with them.

6. 'That they hound out raſcally Commons on Men who have not 'ſubſcribed the Covenant; as Mr. *Samuel Cockburn* did one *John Shaw* 'at *Leith*.

7. 'That his Majeſty would be pleaſed by his Letter to diſcharge 'the Biſhop of *Edinburgh* to pay any Prebends Fee to thoſe who have 'ſubſcribed the Covenant; as alſo by his Royal Letter to diſcharge the 'Lords of Seſſion to grant any Proceſs againſt the Biſhop for their 'Fees.

8. 'That his Majeſty would be pleaſed in the *Articles of Agreement* 'with the Nobility, to ſee Honeſt Men, who ſhall happen in this Tu-'multuous time to be depoſed from their Places, reſtored, and ſetled in 'them; and others, that are violently thruſt in, removed; and that 'the Wrongs done to them be repaired.

9. 'That if it ſhall happen his Majeſty take any violent courſe for 'repreſſing theſe Tumults and Diſorders, (which God forbid) that in 'that caſe their Lordſhips would be pleaſed to ſupplicate his Majeſty 'that ſome ſpeedy courſe may be taken for ſecuring the Perſons of 'thoſe Honeſt Men who ſtand for God and his Majeſty.

Signed

Da. Edin.	*Ja. Hannay.*
Ja. Dumblanen.	*Da. Mitchel.*
Ja. Liſmoren.	*Da. Fletcher.*

The *Marqueſs* having received his *Inſtructions* and *Commiſſion*, took leave a few days after of the *King*; and his Majeſty ordered him to write often to Him, and to the Arch-Biſhop of *Canterbury*, (being the only Engliſh Perſon entruſted with the Secrets of the Scotiſh Affairs.)

The *Marqueſs* takes leave of the King.

Saturday *May* 26 the *Marqueſs* began his Journey, and on the 3d of *June* he arrived at *Berwick*, where the Earl of *Roxbrough* met him, who told him in what diſorder all People were, and how ſmall hopes there remained of prevailing upon the Grounds he was to go on, for that they would never give up the Covenant; that they would have the *Articles* of *Perth* aboliſhed; Epiſcopacy limited, ſo that it ſhould be little more than a Name. And if theſe things were not granted them, and a General Aſſembly and Parliament ſuddenly called, they would call an Aſſembly themſelves before the great Crouds at *Edinburgh* were ſcattered. But the *Marqueſs* reſolved to go on, and try what his Authority as *High Commiſſioner* would do.

The *Marqueſs* arrives at *Berwick*.

Meets with ill News of Diſcouragement.

The *Marqueſs* when he came to *Barwick*, expected a great Appearance of Noblemen and others to attend him, as the King's *High-*

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A little after the *Marqueſs's* arrival at *Dalkeith*, the Citizens of *Edinburgh* ſent certain *Commiſſioners* unto him with a Supplication, That he would be pleaſed to repair to the King's Palace at *Hally-Rood Houſe*, where they might more conveniently attend his Grace's Directions. To which the *Marqueſs* returned this Anſwer:

'That if they would undertake to be Maſters and Governours of 'their own City; that their Citizens would behave themſelves as good 'and dutiful Subjects; and take Order that the Multitudes now pre-'ſent in their City, who called themſelves *Covenanters*, ſhould do ſo too; 'and that the Guards about the Caſtle of *Edinburgh* ſhould be diſmiſſed 'and diſcharged, then he would within a day or two repair to the 'King's Palace at *Hally-Rood Houſe*, otherwiſe not: for that he did 'hold it not agreeable to the King's Honour, that he his Majeſty's *Com-'miſſioner* and *Council*, ſhould reſide at the ſaid Palace, which is ſitua-'ted at the one end of the City, when the Caſtle ſeated at the other 'end of the ſame, ſhould be blocked up with Guards. All which theſe *Commiſſioners* undertook to perform, and by their words deſired to approve themſelves moſt loyal Subjects, hoping to clear themſelves from many Aſperſions laid upon them, when his Grace would be pleaſed to hear and examin their Proceedings.

Whereupon the *Marqueſs*, according to his Promiſe, did remove himſelf from *Dalkeith* to the King's Palace at *Hally-Rood Houſe*, attended by all the Secret Council, abundance of Nobility, Gentry, and others, and about two or three miles from *Edinburgh* was met with the whole Body of the Nobility and Gentry of the *Covenanters* then reſident at *Edinburgh*, who were all mounted on Horſback, and conſiſted of divers thouſands; and beſides, at a nearer diſtance from *Edinburgh*, he was attended by Miniſters on foot, conſiſting of many hundreds.

The *Marqueſs* being ſetled at *Hally-Rood Houſe*, with the Aſſiſtance of the King's Council, he deſired the *Covenanters* to diſmiſs their great Multitudes, which accordingly they did. And then the two main Propoſitions which he offered to their conſideration were theſe.

Firſt, *What they ſhould expect to hear in the King's Name for accommodating their Grievances.*

Next, *What might be expected from them for returning to their former Obedience, eſpecially in renouncing and delivering up their late Covenant.*

Both which Propoſitions they received: but nothing but a General Aſſembly and a Parliament would give ſatisfaction; and thereupon new Guards were clapt upon *Edinburgh* Caſtle, and the Guards and Watches of the City multiplied.

The Preachers adviſed the People to take heed of *crafty Propoſitions*; and when the *Marqueſs* deſigned to go to the King's Chappel to hear Divine Service and Sermon at *Hally-Rood Houſe*, they ſent him word not

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not to read the English Service-Book, and nailed up the Organs; and the Miniſters *Covenanters* proceeded ſo far, as to write a Letter to the Marqueſs, and every one of the Council, admoniſhing them to ſubſcribe their Covenant; which Letter followeth in theſe words.

May it pleaſe your Lordſhip,

WE *the Miniſters of the Goſpel, convened at this ſo neceſſary a Time, do find Our ſelves bound to repreſent, as unto all, ſo in ſpecial unto your Lordſhip, what comfortable experience We have of the wonderful favour of God, upon the renewing of the* Confeſſion of Faith *and* Covenant; *what Peace and Comfort hath filled the Hearts of all God's People; what Reſolutions and Beginnings of Reformation of Manners are ſenſibly perceived in all parts of the Kingdom, above any Meaſure that ever We did find or could have expected; how great Glory the Lord hath received thereby, and what confidence We have (if this Sun-ſhine be not eclipſed by ſome ſinfull Diviſion or Defection) that God ſhall make this a bleſſed Kingdom, to the contentment of the King's Majeſty, and joy of all his good Subjects, according as God hath promiſed in his good Word, and performed to his People in former Times: And therefore We are forced from Our Hearts, both to wiſh and entreat your Lordſhip to be Partaker and Promover of this Joy and Happineſs by your ſubſcription, when your Lordſhip ſhall think it convenient. And in the mean while, that your Lordſhip would not be ſparing to give a free Teſtimony to the Truth, as a timely and neceſſary expreſſion of your tender Affection to the Cauſe of Chriſt, now calling for help at your hands: Your Lordſhip's profeſſion of the true Religion as it was reformed in this Land, the National Oath of this Kingdom ſundry times ſworn and ſubſcribed, obliging us who live at this time; the Duty of a good Patriot, the Office and Truſt of a Privy-Counſellor; the preſent Employment to have place amongſt thoſe that are firſt acquainted with his Majeſty's Pleaſure; the conſideration that there is the time of trial of your Lordſhip's affection to Religion; the reſpect which your Lordſhip hath unto your Fame both here and hereafter, when things ſhall be recorded to Poſterity; and the Remembrance, that not only the eyes of Men and Angels are upon your Lordſhip's Carriage, but alſo that the Lord Jeſus is a ſecret Witneſs now to obſerve, and ſhall be an open Judg hereafter to reward and confeſs every Man before his Father, that confeſſeth him before Men: All of theſe, and each of them, beſides your Lordſhip's perſonal and particular Obligations to God, do call for no leſs at your Lordſhip's hands, in the cauſe of ſo great and ſingular Neceſſity. And we alſo do expect ſo much at this time, according as your Lordſhip at the hour of Death would be free of the Terror of God, and be refreſhed with the comfortable remembrance of a word ſpoken in ſeaſon for Chriſt Jeſus, King of Kings, and Lord of Lords.*

The Marqueſs perceiving this violent Humour in the People, not to hear of any Proclamations, unleſs with the diſcharge of the *Service-Book*, and Book of *Canons*, &c. durſt not adventure to publiſh his Majeſty's Declaration, knowing it would be affronted with a Proteſtation; whereupon the Marqueſs forbore the ſame, and gave the King an accompt how he found things; letting the King know, That he muſt either reſolve to yield to all their Demands, or haſten down his Fleet quickly, with Land Souldiers in it; and to put Souldiers in-

An. 1638. to *Berwick* and *Carliſle*, and to reſolve to follow in Perſon with a Royal Army; yet withal moved his Majeſty, That he would conſider how far in his Wiſdom he would connive at the madneſs of his own poor People, and how far in Juſtice he would puniſh their Folly.

On the 15*th* of *June* the Marqueſs received an Anſwer from the King, to the Account which he ſent to his Majeſty from *Berwick*, dated at *Greenwich*, *June* 11. to the effect following.

HAMILTON,

I Expect not any thing can reduce that People to Obedience, but Force only: In the mean time your care muſt be how to diſſolve the Multitude; and (if it be poſſible) to poſſeſs your ſelf of my Caſtles of Edinburgh and Sterling, (which I do not expect); and to this end I give you leave to flatter them with what hopes you pleaſe, ſo you engage not me againſt my Grounds, and in particular, that you conſent neither to the Calling of Parliament, nor General Aſſembly, until the Covenant be diſavowed and given up, your chief end being now to win time until I be ready to ſuppreſs them.

But when I conſider that not only now my Crown, but my Reputation for ever lies at Stake; I muſt rather ſuffer the firſt, that time will help, than this laſt, which is irreparable. This I have written to no other end, than to ſhew you, I will rather die than yield to thoſe impertinent and damnable demands (as you rightly call them); for it is all one as to yield to be no King in a very ſhort time. So wiſhing you better ſucceſs than I can expect, I reſt,

Greenwich, *June* 11. 1638. Your aſſured conſtant Friend,

C. R.

POSTSCRIPT.

As the Affairs are now, I do not expect that you ſhould declare the Adherers to the Covenant Traitors, until (as I have already ſaid) you have heard from Me that my Fleet hath ſet ſail for Scotland, tho your ſix weeks ſhould be elapſed. In a word, Gain time by all the honeſt means you can, without forſaking your Grounds.

The Rude *Covenanters* rail againſt the Marqueſs.

But all the Miniſters hearing the *Covenant* muſt be given up, or no Treaty made, their Pulpits did ring with it, and all declared they would never quit the *Covenant* but with their Lives. A Proteſtation was alſo reſolved on when-ever the Declaration ſhould be publiſhed; which made it be delaied a little longer, and the Marqueſs writ to the King not to proceed in his Warlike Preparations till things were more deſperate. To which Letter, the Marqueſs afterwards received this Anſwer.

1. *That he had gained a conſiderable Point, in making the heady Multitude begin to diſperſe.*

2. *That he will take his advice to ſtay publick Preparations for Force, but in a ſilent way; but (by your leave,* ſaith the King) *I will not leave to prepare, that I may be ready upon the leaſt adverti ſement.*

On

14 *Caroli.*

The *Covenanters* declare they will be no longer delaied.

On the 16*th* of *June*, the *Covenanters* came and preſented their Petition to the Marqueſs, craving a preſent redreſs of their Grievances, for *they would be no longer put off by delays*; and deſired that he would propoſe the Matter to the Council, and give them a ſpeedy Anſwer. To which the Marqueſs replied, That *he did reſolve to call both an Aſſembly and Parliament for the redreſs of all Grievances.* They went away no ways ſatisfied with this Anſwer; and the Marqueſs found all the Lords of the Council inclined to the granting of what the *Covenanters* demanded; ſo that he durſt call no Council about it, leſt they ſhould have ſided with the *Covenanters.* Of which he advertiſed his Majeſty; and that they preſſed him to repreſent to his Majeſty, That the Covenant was not illegal; and that if his Majeſty would allow of the Explanation of the Bond of *Mutual Defence*, which they offered, *that they meant not thereby to derogate any thing from the King's Authority*, and ſo all things might be ſetled without more trouble, either to the King or Country.

The Marqueſs fears the Council will incline to the *Covenanters*; And informs the King thereof.

And of the Explanation of the *Covenanters*.

And as to the Explication of the *Covenant*, this Draught following was made, by the Arch-Biſhop of St. *Andrews.*

The Explication.

WE the Noblemen, Barons, Burgeſſes, Miniſters, and others, that have joined in a late Bond or Covenant for the maintaining of the true Religion and Purity of God's Worſhip in this Kingdom, having underſtood that Our Soveraign Lord the King's Majeſty is with this Our doing highly offended, as if We thereby had uſurped his Majeſty's Authority, and ſhaken off all Obedience to his Majeſty, and to his Laws: for clearing Our ſelves of that Imputation, do hereby declare, and in the preſence of God Almighty, ſolemnly proteſt, That it did never ſo much as enter into Our thoughts, to derogate any thing from his Majeſty's Power and Authority Royal, or to diſobey and rebel againſt his Majeſty's Laws: And that all Our proceedings hitherto by Petitioning, Proteſting, Covenanting, and whatſoever other way, was and is only for the maintaining of the true Religion by us profeſſed; and with expreſs reſervation of Our Obedience to his moſt Sacred Majeſty, moſt humbly beſeeching his Majeſty ſo to eſteem and accept of Us, that he will be graciouſly pleaſed to call a National Aſſembly and Parliament for removing the Fears We have not without cauſe (as We think) conceived, of introducing in this Church another form of Worſhip than what We have bin accuſtomed with; as likewiſe for ſatisfying Our juſt Grievances, and the ſetling of a conſtant and ſolid Order to be kept in all time coming, as well in the Civil as Eccleſiaſtical Government: Which if We ſhall by the Intercеſſion of your Grace obtain, We faithfully promiſe (according to Our bounden Duties) to continue in his Majeſty's Obedience, and at Our utmoſt Powers to procure the ſame during Our Lives.

The Marqueſs ſent again a new Diſpatch to the King, and gave his Majeſty a large account of the *Explanation* which was offered to that Part of the *Covenant*, by which they were bound to *Mutual Defence*, and to which his Majeſty wrote this following Anſwer.

Green-

An. 1638.

Greenwich, 25 *of* June, 1638.

The ſubſtance of the King's Anſwer to the Explanation.

AS concerning the Explanation of their Damnable Covenant, (whether it be with or without Explanation) I have no more Power in Scotland, than as a Duke of Venice; which I will rather die than ſuffer: Yet I commend the giving ear to the Explanation, or any thing elſe to win time, which now I ſee is one of your chiefeſt Cares, wherefore I need not recommend it to you. And for their calling a Parliament, or Aſſembly, without Me, I ſhould not much be ſorry, for it would the more loudly declare them Traitors, and the more juſtify My Actions: Therefore in My mind, My Declaration would not be long delayed; but this is a bare Opinion, and no Command.

The Marqueſs threatned the *Covenanters* to leave them, and would beg liberty of the King for leave to wait on his Majeſty with their Deſires, and return them an anſwer within three Weeks or a Month: But the true Reaſon that moved him to deſire Permiſſion to go up, was that thereby he ſhould gain ſo much time, and ſee in what forwardneſs the King's Preparations were; but chiefly to try what he could prevail about eſtabliſhing the *Confeſſion of Faith*, which had paſſed in Parliament 1567, hoping that it might give full ſatisfaction to all, that there ſhould be no Innovation in Religion.

The King gives the Marqueſs leave to come to Court, and to bring with him all their Demands.

And accordingly the King, by his Letter dated at *Greenwich* the 29*th* of *June*, gives him leave to come up, and to bring with him all the Demands of the *Covenanters*, whereby to gain more time; and adviſed him not to mediate for any thing that is againſt his Grounds, and that no more Subſcriptions be urged upon any, eſpecially of the Council or Seſſion.

Before the Marqueſs took Journey, he did on the 4*th* of *July*, preſent the King's Declaration to the Council, and got it ſigned by them all: And an Act paſſed, That the Subjects ought to reſt ſatisfied with it, and was immediately ſent to the Market-Croſs and Proclaimed; but notwithſtanding it met with a Proteſtation; which Declaration and Proteſtation followeth.

Greenwich, June 28. the King's Declaration.

CHARLES by the Grace of God, King of *Scotland*, *England*, *France*, and *Ireland*, Defender of the Faith. To Our Lovits, Heralds, Meſſengers, Our Sheriffs in that Part conjunctly and ſeverally, ſpecially conſtitute, greeting.

The King promiſeth to call a free Aſſembly, and a Parliament, and diſcharge all Acts of Council concerning the *Service-Book*.

FOrasmeikle as We are not ignorant of the great Diſorders which have hapned of late within this Our ancient Kingdom of Scotland, occaſioned, as is pretended, upon the introduction of the Service-Book, Book of Canons, and High-Commiſſion, fearing thereby Innovation of Religion and Laws. For ſatisfaction of which Fears, We well hoped that the two Proclamations of the eleventh of December,

14 *Caroli.*

December, and the nineteenth of February, had bin abundantly sufficient. Nevertheless finding that Disorders have daily so increased, that a powerful rather than a perswasive way, might have bin justly expected from Us; yet We out of Our innative indulgence to Our People, grieving to see them run themselves so headlong into ruin, are graciously pleased to try if by a fair way We can reclaim them from their Faults, rather than to let them perish in the same; and therefore once for all We have thought fit to declare, and hereby to assure all Our good People, that We neither were, are, nor by the Grace of God ever shall be stained with Popish Superstition; but by the contrary, are resolved to maintain the true Protestant Religion, already professed within this Our Ancient Kingdom. And for further clearing of Scruples, We do hereby assure all Men, That We will neither now, nor hereafter, press the practice of the Service-Book, or the foresaid Canons, nor any thing of that nature, but in such a fair and legal way as shall satisfy all Our loving Subjects, That We neither intend Innovations in Religion or Laws; and to this effect have given order to discharge all Acts of Council thereanent. And for the High-Commission, We shall so rectify it, with the help and Advice of Our Privy-Council, that it shall never impugn the Laws, nor be a just Grievance to Our Loyal Subjects; and what is further fitting to be agitated in General Assemblies and Parliament, for the Good and Peace of the Kirk, and peaceable Government of the same, in establishing of the Religion presently professed, shall likewise be taken into Our Roial Consideration, in a free Assembly and Parliament, which shall be indicted and called with Our best convenience: And We hereby take God to Witness, That Our true meaning and intention is, Not to admit of any Innovations, either in Religion or Laws, but carefully to maintain the purity of Religion already professed and established, and no ways to suffer Our Laws to be infringed. And though We cannot be ignorant, that there may be some disaffected Persons, who will strive to possess the Hearts of Our good Subjects, that this Our Gracious Declaration is not to be regarded; yet We do expect that the behaviour of all Our Good and Loyal Subjects will be such, as may give testimony of their Obedience, and how sensible they are of Our Grace and Favour, that thus passeth over their Misdemeanours, and by their future carriage make appear, that it was only fear of Innovation that hath caused the Disorders which have hapned of late within this Our Ancient Kingdom, and are confident that they will not suffer themselves to be seduced and misled, to misconstrue Us or Our Actions, but rest heartily satisfied with Our Pious and Real Intentions, for maintenance of True Religion & Laws of this Kingdom. Wherefore We require, and heartily wish all Our good People carefully to advert to these dangerous Suggestions, and not to permit themselves blindly, under pretext of Religion, to be led in Disobedience, and draw on infinitely, to Our grief, their own Ruin, which We have and still shall strive to save them from, so long as we see not Royal Authority shaken off; and most unwillingly shall make use of that Power which God hath endued Us with, for reclaiming of disobedient People.

Per Regem.

The

An. 1638.

The PROTESTATION of the Noblemen, Barons, Gentlemen, Burrows, Miniſters, and Commons, &c.

Proteſtation againſt the King's Declaration, dated Jun. 28. 1638.

'WEE *Noblemen, Barons, Gentlemen, Burrows, Miniſters* and *Commons*, That whereas We his Majeſty's true and loyal Subjects, 'who have ever eſteemed it our greateſt happineſs to live under a 'Religious and Righteous King, and our greateſt Glory to teſtify our 'beſt Affections to our gracious Sovereign, have been in his Majeſty's 'abſence from his Native Kingdom *heavily preſſed* for a long time paſt, 'and eſpecially of late, with divers *Innovations*, which both in them-'ſelves, and in the way wherein they have been urged, do manifeſt-'ly tend to the prejudice of the King's Honour, and of our Religion, 'Laws and Liberties; And by which We have been brought to ſuch 'extremity, that there was no way left betwixt the Rock of *Excommu-'nication*, and the high pain of *Rebellion* on the one part, and the '*deſperate danger* of forſaking the *Way of True Religion*, and the *breach 'of our Covenant with God* on the other, but to preſent our Caſe, and 'preſent our Supplications to the *Lords of Secret Council*, that being 'equally pondered by them, they might either be anſwered by them-'ſelves, or by their Recommendation might aſcend to his Majeſty's own 'Conſideration: And therefore We did in all humble manner to this 'effect ſupplicate their Lordſhips. We were not willing (for the mo-'deſt following of our Supplications) to obey their Directions in 'chooſing Commiſſioners for the great number of Supplicants, who 'flocked together from all parts of the Kingdom; were careful to or-'der our ſelves in all quiet and Chriſtian carriage, and againſt the ma-'ny and tedious delays did wait for a long time with very great Pa-'tience, till at laſt they were pleaſed to receive our Supplications, 'Complaints and Bills; and conceiving them to contain weightier 'matters then could by themſelves be determined, they did promiſe 'and undertake to repreſent and recommend the ſame, according to 'their more than ordinary importance, unto his Majeſty's Royal Con-'ſideration, and to report his Majeſty's Anſwer.

'While his Majeſty's good Subjects of all ranks throughout the whole 'Kingdom, had their minds weakned, and their hearts filled with the 'expectation of a *gracious* and *ſatisfactory Anſwer*, worthy his Majeſty's 'pious and equitable Diſpoſition; in the month of *February* laſt, incon-'tinent a rumour flies through the Country, and fills all Ears, That the 'Lords of his Majeſty's *Secret Council* were commanded to make ſuch 'a Proclamation concerning the *Service-Book*, Book of *Canons*, and 'the *Peaceable Meetings* of his Majeſty's good Subjects in time coming, 'as we were perſwaded to have been procured by the ſecret working, 'and malignant miſinformation of our Adverſaries, ſeeking for their 'own private ends, without reſpect to his Majeſty's Honour, and 'welfare of this Kirk and Kingdom, to ſtop the courſe of our legal 'Proceedings, and to eſcape their own due Cenſure; and therefore in-'tending to make known to the Lords of the *Secret Council*, what was 'noiſed concerning the *Proclamation*, how far the whole Kingdom had 'been by ſome ſiniſtrous miſinformation fruſtrate of their hopes, and 'their conſtant deſire to have ſome courſe taken by their Lordſhips Ad-'vice, how his Majeſty being further informed, might deliver his good 'Subjects from ſo great Greivances and Fears, and eſtabliſh a ſure Peace

in

14 *Caroli.*

'in this Country for the time to come: we found our ſelves tied by 'order of Law, to decline thoſe againſt whom we had made our 'Complaint, unleſs we would admit our Judges to be parties; and 'in caſe our *Declinator* ſhould not be accepted, we behoved to 'proteſt that we might have immediate recourſe to the King him-'ſelf *&c.*

'Thereafter, in the month of *March*, finding by the aforeſaid Pro-'clamation the Innovations ſupplicated againſt were approven, our 'lawful Proceedings condemned, our moſt neceſſary *Meetings prohibit-'ed*, there being no other way left unto us, we were neceſſitated to 'renew the *National Covenant* of this Kirk and Kingdom, thereby to 'reconcile us to God, provoked to wrath againſt us, by the breach 'of his Covenant within this Land, to clear our Sovereign's mind 'from all jealouſies and ſuſpicions, ariſing from our Adverſaries miſ-in-'formations of our intentions and carriage, and ſo to make way for his 'acceptance of our humble Supplications, and grant of their lawful 'remedies, to guard this Land in defence of Religion, Authority, and 'Liberty, againſt inward diviſion, and external violences. And that our 'actions might be anſwerable to our holy Profeſſion, We afterwards 'drew up an humble Supplication, containing our *Greivances*, and de-'ſires of the ordinary remedies thereof, to have been delivered to the 'King himſelf: in the mean time, we were directed by thoſe, who were 'intruſted by his Majeſty, to attend his Declaration here in *Scotland*, 'which would free us from all fears of *Innovations* of Religion, and 'prove ſatisfactory. And leſt for want of true information of our juſt 'Grievances and Deſires, it ſhould fall out otherwiſe, We expreſſed to 'them with the greateſt modeſty we could, our Deſires in ſome few '*Articles*, and with great patience have attended his Majeſty's Plea-'ſure thereanent; and all this Month by-gone being frequently con-'vened to hear the ſame delivered by his Majeſty's *Commiſſioner*, the 'Right Noble Lord, *James* Marqueſs of *Hamilton*, *&c.* We preſented a 'new *Petition* to his Grace, as his Majeſty's Commiſſioner, craving 'moſt humbly the *indiction of an Aſſembly* and *Parliament*, as the only 'Remedies thereof. Like-as finding a Miſinformation or *miſtake* of 'our Covenant with God, as if it had been an *unlawful Combination*, 'to be the main hindrance of obtaining our Deſires in a *new Suppica-'tion*, We have fully *removed that Impediment*, renewed our Deſires 'of thoſe *ſupreme Judicatories*, to be indicted with diligence for ſetling 'of the Kirk and Kingdom; but being only *anſwered with delays* after 'theſe *nine months attendance*, and with this *Proclamation*, that con-'tained his Majeſty's Declarations of his Pious Intentions, not to admit 'any *Innovations in Religion* or *Law*, nor any ſtain of *Popiſh Superſtition*; 'but on the contrary, to be reſolved to *maintain the true Chriſtian Reli-'gion* profeſſed in this Kingdom; which We were ever ſo far from 'calling into queſtion, as in our Supplications, Complaints and Bills, 'We uſed the ſame as one cauſe of our Deſires, one ground of 'our Confidence of a *gracious Anſwer*, and Argument of our *Adverſa-'ries* malignant Miſinformation of ſo Religious a King, and now moſt 'humbly (on *bended Knees* and *bowed Hearts*) thank our gracious So-'vereign for the ſame, wiſhing and praying the Lord of Heaven tru-'ly and fully to inform his Majeſty how far theſe Books, Judicatories, 'and all our other Evils and Grievances, are full of *Idolatrous Superſti-'tions* and *Popiſh Errors*, deſtructive of the Reformation of Religion in

An. 1638. ‘this Land, and of the Laws and Liberties of this Church and King-
‘dom, and ſo directly contrary to his Majeſty's Pious Intention and
‘Declaration: Yet ſeeing that no *Proclamation* could ſufficiently re-
‘move the preſent Evils, nor ſettle our Fears, nor ſecure us from the *re-*
‘*entry of any Evil* or *Innovation*, which it ſeemed to diſcharge, or pre-
‘vent the like in time coming, nor ſatisfy our humble Supplications,
‘craving the *Indiction* of a *free Aſſembly* and *Parliament*, as the *only*
‘*Remedies* of our Evils, and means to prevent the like. And ſeeing
‘this *Proclamation* doth not ſo much as make mention, or acknow-
‘ledg any of our Supplications, Complaints and Grievances, or any juſt
‘cauſe thereof, except under the name of the great increaſe of Diſor-
‘ders, Faults and Miſdemeanors, but only our Fears of ſome future
‘*Innovation* of Religion or Laws, occaſioned only (as is pretended)
‘by the Introduction of the *Service-Book*, Book of *Canons*, and *High-*
‘*Commiſſion*; which Fears his Majeſty hoped to have been abundantly
‘and ſufficiently ſatisfied by his two former Proclamations, of the 9th
‘of *December*, and the 19th of *February*, and by this his preſent De-
‘claration, unleſs his Subjects be (under pretext of Religion) blindly
‘led unto Diſobedience, *doth misken*, paſs over, and ſo in effect deny
‘all our Supplications, Bills, Articles, and Deſires, eſpecially our *Com-*
‘*plaints againſt the Prelats* our Parties. And that once for all, in a fair
‘and perſuaſive way, even after the receipt of our laſt Supplication,
‘clearing us from the Calumny of *unlawful Combination*, doth not diſ-
‘allow nor diſcharge any of the *Innovations* and Evils complained up-
‘on, but only aſſureth that his Majeſty will not preſs their practice
‘but in ſuch a fair and legal way as ſhall ſatisfy his Subjects of his In-
‘tentions; which (joined with the other clauſe, *allowing and con-*
‘*firming the Proclamation of the 19th of February*) evidenceth the liber-
‘ty left to any Prelat or Perſons to practiſe the ſame, and by all other
‘fair ways to perſwade others thereunto; and his Majeſty's Reſolu-
‘tion to preſs their practice in a fair and legal way, and alſo con-
‘firmeth the former Declaration, that the *Service-Book* is a ready mean
‘to maintain the true Religion already profeſſed, and to beat out all
‘Superſtition, and no ways to be contrary to the Law of this King-
‘dom, but to be compiled and approved for the univerſal uſe and
‘edification of all his Majeſty's Subjects; doth not aboliſh, but pro-
‘miſeth to rectify the *High-Commiſſion*, with the Advice of his Privy-
‘Council, implying the King's Power, with conſent of his Council, to
‘eſtabliſh this or any Judicatory within this Kingdom, *without conſent*
‘*of the three Eſtates convened Parliament*, contrary to the fundamental
‘and expreſs Laws thereof; and by conſequent with the like Reaſon,
‘to eſtabliſh Laws and *Service-Books* without conſent of the *Aſſembly*
‘and *Parliament*; which is contrary to the *main ground of our Sup-*
‘*plications* againſt the manner of their introduction; doth only pro-
‘miſe to take into his Conſideration in an Aſſembly and Parliament,
‘which ſhall be called at his beſt convenience, while, as the evident
‘and urgent neceſſity for ſetling the *Combuſtions*, threatning the total
‘diſſolution and deſolation of this Church and State, excuſeth Our in-
‘ceſſant and importunate calling for theſe preſent Remedies; doth inſi-
‘nuate the continuance and execution of any pretended Laws for theſe
‘Innovations in Worſhip, and Corruptions of Church-Government,
‘and Civil Places of Church-men, which by our *Covenant* we have ob-
‘liged Our ſelves to forbear, and the reſtabliſhment of theſe Evils in

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14 *Caroli.*

'an Aſſembly and Parliament which he will call in his beſt conveni-
'ency, to wit, for that end, and ſatisfying of his Subjects Judgments
'anent the *Service-Book* and Book of *Canons*, doth condemn our for-
'mer Proceedings, even our *ſupplicating*, *complaining*, *proteſting*, and
'*ſubſcribing* of our *Covenant*, together with our continual Meetings,
'as great Diſorders, increaſe of great Diſorders, deſerving juſtly a
'powerful rather than a perſwaſive way; a running headlong into
'Ruin; a periſhing in our Faults; a blind Diſobedience under pre-
'text of Religion; and doth threaten and denounce, now once for all,
'if We be not heartily ſatisfied, and give teſtimony of our Obedience
'after this Declaration, but continue, as by our former Proceedings,
'to draw on our own Ruin, that although unwillingly, he muſt make
'uſe of that Power which God hath endued him with, for reclaiming
'ſo diſobedient People.

'Therefore We in our own Name, and in the Name of all who will
'adhere to the *Confeſſion* of *Faith*, and *Reformation* of *Religion* within
'this Land, are forced and compelled out of our bounden Duty to
'God, Native Country, our King, our Selves, and our Poſterity, leſt
'our Silence ſhould be prejudicial to ſo important a Cauſe, as concerns
'God's Glory and Worſhip, our Religion and Salvation, the Laws
'and Liberties of the Church and Kingdom, or derogatory to our for-
'mer Supplications, Complaints, Proteſtations, Articles, and Proceed-
'ings, or unanſwerable to our ſolemn Oath of our National Covenant
'with God, to declare before God and Man, and to proteſt,

'*Primo*, That we do and will conſtantly adhere, according to our
'Vocation and Power, to the ſaid Reformation in Doctrine, uſe of
'Sacraments, and Diſcipline, and that notwithſtanding of any Innova-
'tions introduced therein either of old or late.

'*Secundo*, We Proteſt we adhere to the Greivances, Supplications,
'and Proteſtations, given in at Aſſemblies and Parliaments, to our
'late Supplications, Complaints, Proteſtations, and other lawful Pro-
'ceedings againſt the ſame, and particularly againſt the *Service-Book*,
'and *Book* of *Canons*, as main Innovations of Religion and Laws,
'and full of Popiſh Superſtition, and ſo directly contrary to the King's
'Declaration, and againſt the *High Commiſſion*, as a Judicatory eſta-
'bliſhed contrary to the Laws and Liberties of this Church and King-
'dom, and deſtructive of other lawful Judicatories, which both in re-
'ſpect of the nature of it, and manner of Introduction, without con-
'ſent of the three Eſtates in Parliament, cannot any ways be rectified,
'but abſolutely diſcharged.

'*Tertio*, We proteſt that we adhere with our Hearts to our Oath
'and Subſcription of the *Confeſſion of Faith*, the ſolemn *Covenant* be-
'twixt God, this Church and Kingdom, and the particular Clauſes
'therein expreſſed and generally contained; and to Our laſt *Articles*
'for the Peace of this Kirk and Kingdom, drawn out of it, and to all
'the matters therein contained, and manner therein of Remedy de-
'ſired.

'*Quarto*, We proteſt that this *Proclamation*, or Act of Council, or any
'other Act or Proclamation, or Declaration, or Ratification thereof,
'by Subſcription, or Act, or Letter, or any other manner of way what-
'ſoever, or any *Precondemnation* of our Cauſe or Carriage, before the
'ſame be lawfully heard and tried in the Supreme Judicatories of this
'Kirk and Kingdom, the only proper Judges to National Cauſes and

An. 1638. 'Proceedings, or any Certification or Threatning therein denounced, 'ſhall be no way prejudicial to the *Confeſſion of Faith*, Laws and Liber- 'ties of this Kingdom, nor to our Supplications, Proteſtations, Com- 'plaints, Articles, lawful Meetings, Proceedings, Purſuits, Mutual 'Defences, nor to our Perſons or Eſtates; and ſhall be no way diſ- 'graceful, either in Reality or Opinion, at Home or Abroad, to Us 'or any of Us. But on the contrary, any Letter, or Act, or Sub- 'ſcription of the Council, carrying the approbation of the Declara- 'tion, and condemnation of our Proceedings, *indicta Cauſa*, is and 'ought to be reputed and eſteemed unjuſt, illegal, and null, as here 'before God and Man we offer to clear, and to verify both the juſt- 'neſs of our Cauſe and Carriage, and the injuſtice of ſuch Acts againſt 'Us, in the face of the firſt General Aſſembly of the Church and Par- 'liament of Eſtates; unto whom, with all Solemnities requiſite, We 'do publickly appeal.

'*Quinto*, We proteſt, That ſeeing Our former Supplications, laſt 'Articles, and Our laſt Deſire and Petition to his Majeſty's Commiſſio- 'ner, which petitioned for a preſent Indiction of a free General Aſ- 'ſembly and Parliament, according to the Law and Cuſtom of all 'Nations, and of this Nation in the like caſe, to hear the Deſire, eaſe 'the Grievances, and ſettle the Fears of the Body of the Church and 'Kingdom, are thus delaied, and in effect refuſed: To wit, once for 'all, till his Majeſty's conveniency for the end contained in this Pro- 'clamation, that We continue by theſe Preſents to ſupplicate his Ma- 'jeſty again and again for granting the ſame; and whatſoever trou- 'ble or inconveniency fall out in this Land in the mean time, for 'want of theſe ordinary Remedies, and by the practice of any of 'theſe Innovations and Evils, contrary to our Supplications, Articles, 'and Confeſſion, it be not imputed unto Us, who moſt humbly beg 'theſe lawful Remedies; but alſo that it is, and ſhall be lawful unto 'Us to defend and maintain the Religion, Laws and Liberties of this 'Kingdom, the King's Authority in defence thereof, and every one 'of Us one another, in that Cauſe, of maintaining the Religion, and 'the King's aforeſaid Authority, according to our Power, Vocation, 'and Covenant, with Our beſt Counſel, Bodies, Lives, Means, and 'whole Strength, againſt all Perſons whatſoever, and againſt all ex- 'ternal and internal Invaſion menaced in this Proclamation, like-as 'that in the great exigency of the Church, neceſſitating the uſe of 'the ordinary and lawful Remedies, for ſetling the Commotion there- 'of; it is and ſhall be leathſome unto Us to appoint, hold, and uſe 'the ordinary means, Our lawful Meetings and Aſſemblies of the 'Church, agreeable to the Laws of God, and practice of the Primi- 'tive Times of the Church, the Acts of the General Aſſemblies and 'Parliaments, and the Example of Our worthy Reformers in the like 'caſe.

'*Sexto*, We proteſt, That Our former Supplications, Complaints, 'Proteſtations, Confeſſions, Meetings, Proceedings, and mutual De- 'fences of one another in this Cauſe, as they are and were in them- 'themſelves moſt neceſſary, and orderly means, agreeable to the Laws 'and practice of this Church and Kingdom, and in no wiſe to be ſtiled 'or accounted great Diſorders, Miſdemeanours, blind Diſobedience, 'under pretext of Religion, and running headlong into ruin, *&c.* 'ſo they proceeded only from Conſcience of Duty to God, Our 'King,

14 *Caroli.*

'King, Native Country, and our Poſterity; and do tend to no 'other end, but to the preſervation of the true Reformed Religion, 'the Confeſſion of Faith, Laws and Liberties of this his Majeſty's 'moſt Ancient Kingdom, and of his Majeſty's Authority in defence 'thereof, and ſatisfaction of Our humble Deſires, contained in Our 'Supplications, Complaints, and Articles; unto the which we adhere 'again and again, as We would eſchew the Curſe of Almighty God, 'following the breach of his Covenant; and yet We do certainly ex- 'pect, according to the King's Majeſty's accuſtomed Goodneſs and 'Juſtice, that his Sacred Majeſty, after a true information of the Ju- 'ſtice of our Cauſe and Carriage, will preſently indict theſe ordinary 'Remedies of a Free Aſſembly and Parliament, to Our juſt Supplica- 'tions, Complaints, and Articles, which may be expected, and uſed 'to be granted, from ſo juſt and gracious a King, towards moſt loial 'and dutiful Subjects, calling for Redreſs of ſo preſſing Grievances; 'and praying heartily that his Majeſty may long and proſperouſly 'raign over us.

Before the Marqueſs's departure, the *Covenanters* yielded to an Explication of their Covenant, by way of Supplication, as followeth.

To His Majeſty's Commiſſioner:

The Supplication of the Noblemen, Barons, Burgeſſes, Miniſters, and Commons, here attending his Majeſty's Gracious Anſwer of Our former Petitions, Complaints, and Deſires.

Humbly ſheweth,

THat *whereas We expecting from your Grace, as his Majeſty's Commiſſioner, a gracious Anſwer of Our former Supplications, Complaints, and juſt Deſires, have preſented to your Grace a Petition, humbly craving a free Aſſembly and Parliament, as the ordinary Remedy of our Grievances, and the only means to put this Kirk and Kingdom to quietneſs. It pleaſed your Grace to ſhew, that his Majeſty, from his princely care of this Kirk and Kingdom, would be moſt willing to indict a free General Aſſembly, and call a Parliament, for thoſe good Ends, but that your Grace, as his Majeſty's Commiſſioner, hath conceived the* Confeſſion of Faith *and* Covenant, *lately renewed by us his Majeſty's Subjects, to be an unlawful Combination againſt Authority, thereby to caſt off Our dutiful Obedience, and not a Covenant for maintaining of True Religion, of his Majeſty's Perſon and Authority, and of the Laws and Liberties of the Kingdom. And we being moſt willing to remove that, as the main hinderance of the obtaining of Our Deſires therefore, and for clearing our Loyalty, and vindicating our Selves from ſo great an Imputation, We do now in all humility remonſtrate to your Grace, as his Majeſty's Commiſſioner, and declare before God and Men, That we are heartily grieved and ſorry that any good Man, but moſt of all Our dread Soveraign ſhould ſo conceive of Our doing. And that We were, and ſtill are ſo far from any thought of withdrawing our Selves from our dutiful Subjection and Obedience to his Majeſty's Government; which by the deſcent, and under the Raign of* 107 *Kings,*

An. 1638. *Kings, is moſt chearfully acknowledged by Us and Our Predeceſſors, that We never had nor have any intention to deſire to attempt any thing that may turn to the diſhonour of God, or the diminution of the King's Greatneſs and Authority. But on the contrary, We acknowledg our Quietneſs, Stability, and Happineſs, to depend upon the ſafety of the King's Majeſty, as upon God's Vicegerent, ſet over Us for maintenance of Religion, and miniſtration of Juſtice, have ſolemnly ſworn, not only Our mutual Concurrance and Aſſiſtance for the Cauſe of Religion, but alſo to the utmoſt of Our Power with our Means and Lives, to ſtand to the defence of Our dread Soveraign the King's Majeſty, his Perſon and Authority, in the preſervation and defence of the True Religion, Liberties, and Laws of the Kingdom. And therefore We his Majeſty's Loyal Subjects, free from that and all other Imputations of that kind, moſt humbly beſeech your Grace to eſteem, That our* Confeſſion of Faith *and* Covenant *to have bin intended, and to the largeſt teſtimony of our Fidelity to God, and loyalty to our King, and that hinderance being removed, muſt ſtill ſupplicate that your Grace would be pleaſed to indict a free General Aſſembly and Parliament, which will undoubtedly redreſs all our Evil, ſettle the Peace of the Kirk and Kingdom, and procure that chearfulneſs of Obedience which ought to be rendred to his Majeſty, carrying with it the offer of our Fortunes and beſt Endeavours for his Majeſty's Honour and Happineſs, as a real teſtimony of our Thankfulneſs, and our hearty Prayers to God, that his Majeſty may long and proſperouſly raign over us.*

At this time Marqueſs *Hamilton* told the *Covenanters*, That he had no Authority to indict an Aſſembly, unleſs ſome Particulars were agreed upon, both concerning the Conſtitution of the Aſſembly, and the preſent ſetling the Peace of the Kingdom; and delivered the Particulars of the King's Demands to the chief Lords of the *Covenanters* in ten Articles, which they utterly diſliked; and then the Marqueſs afterwards reduced them to theſe two, *viz.*

1. 'If the Lords and the reſt will undertake for themſelves and the 'reſt, that no *Laicks* ſhall have Voices in chuſing the Miniſters to be 'ſent from the ſeveral Preſbyteries to the General Aſſembly, nor none 'elſe but the Miniſters of the ſame Preſbytery.

2. 'If they will undertake that at the Aſſembly they ſhall not go 'about to determine of things eſtabliſhed by Act of Parliament, other-'wiſe than by Remonſtrance or Petition to the Parliament, leaving the 'determining of Things Eccleſiaſtical to the General Aſſembly, and 'things ſetled by Act of Parliament to the Parliament, then I will 'preſently indict a General Aſſembly, and promiſe, upon my Honour, 'immediately after the Aſſembly, to indict a Parliament, which ſhall '*Cognoſce* of all their Complaints.

This highly diſpleaſed the Heads of the *Covenanters*, who began preſently to think of the Election of Commiſſioners for the General Aſſembly. But the Marqueſs told them, That if they did proceed to the Election of any Commiſſioners for the Aſſembly before his return, he would not go his Journy at all, but leave them to their own ways. At laſt having conſulted with their *Tables*, they agreed that the Election of Commiſſioners ſhould be delaied until his return.

The Marqueſs by his Induſtry had got ſome of the Privy-Council, who were not ſatisfied with the Declaration, to be abſent from the Council

Council that day; but divers of those who had signed the Act, *That Subjects ought to rest satisfied with the Declaration*, came afterwards to him, telling him, That upon second thoughts, they found they had *wronged their Consciences*, therefore they desired he would call a New Council, that they might retract what they had done; and said plainly, If he called not a Council, they would find another way to make their Retractation to be known, and that was, to *subscribe the Covenant*. The Marquess imparting this to the whole Council apart, found that three parts in four would immediately fall off, if he gave them not satisfaction; and judging that such a visible breach in the Council would ruin the King's Affairs, and the Act so signed not being Registred, but only Subscribed, he thought it best to tear it before their Faces, by which means he got the Storm calmed.

14 *Caroli.*

Divers of the Council who subscribed to the Declaration, do retract the same.

This being done, the Marquess took his Journy on *July* the *6th*.

When the Marquess came to Court, he gave the King a full Account of all that had passed in *Scotland*, and of the Strength and Rage of the *Covenanters*, together with the unconstancy of many of the Secret Council, and proposed to his Majesty to renew the *Confession of Faith* ratified in Parliament 1567. And to that his Majesty did readily consent, and resolved to enlarge his Instructions, which he did to the effect following.

The Marquess moves the King to renew the *Confession of Faith.*

London, July 27, 1638.

CHARLES *R.*

YOu shall try by all means, to see if the Council will sign the Confession of Faith, established by Act of Parliament, with the New Bond joined thereunto: But you are not publickly to put it to voting, except you be sure to carry it, and thereafter that probably they will stand to it.

If the Council do sign it, though the Covenanters refuse, you shall proceed to the indicting of a free General Assembly; and though you cannot procure the Council to sign it, yet you are to proceed to the indicting thereof, if you find no other course can quiet Business at this time.

You shall labour by all fair means, that the sitting of the Assembly be not before the first of November, or longer if you can obtain it. For the Place, We are pleased to leave it to your Election: For the manner of Indicting, you must be as cautious as you can, and strive to draw it, as near as may be, to the former Assemblies in My Father's Time.

You must labour that the Bishops may have Votes in Assemblies; which if you cannot obtain, then you are to protest in their Favours, in the most formal manner you can think of.

As for the Moderator in the Assembly, you are to labour that he may be a Bishop; which though you cannot obtain, yet you must give way to their Election.

You are to labour, That the five Articles of Perth be held as indifferent: Strive that the Admissions of Ministers may continue as they are. You may condescend that the Oaths of their Admission be no other than is warranted by Act of Parliament.

You

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You are, if you find that it may any wise conduce to Our Service, to enact and publish the Order made at Hally-Rood-House, by Our Council, the fifth of July last, for discharging the Use of the Service-Book, Book of Canons, and the Practice of the High-Commission.

You are to protest against the Abolishing of Bishops, and to give way to as few Restrictions of their Power as you can: As for the Bishops not being capable of Civil Places, you must labour what you can to keep them free.

You may give way, that they shall be accountable to the General Assembly, which you shall indict at the rising of this against that time twelve month.

As for the Bishops Precedence, you are not to admit them of the Assembly to meddle therewith, it being no point of Religion, and totally in the Crown.

If the Bishop of St. Andrews, or any other, be accused of any Crime, you are to give way to it, so they may have a free Trial, and likewise the same of whatsoever Person or Officer of State.

It is left to your discretion what course Bishops shall take, that are for the present out of the Country.

You are to advise the Bishops to forbear sitting at the Council, till better and more favourable times for them.

Notwithstanding all these Instructions above mentioned, or any other accident that may happen, (still labouring to keep up Our Honour so far as possibly you can) you are by no means to permit a present Rupture to happen, but to yield any thing, though unreasonable, rather then now to break.

Besides these Instructions, his Majesty ordered the Marques, That the Moderators named by the Bishops in Presbyteries, be again reponed and held necessary Members of the Assembly; that all Ministers turned out since these Stirs began, might be again restored; and that all Ministers admitted without the Bishops, may not exercise their Function.

And the King wrote also by the Marques to the Council, dated at *Oatlands*, *July* 30. taking notice that this Bond being not subscribed by Roial Leave & Authority, as was that in the time of K. *James*, must needs be both *null* in it self, and prejudicial to the Kirk and State; his Majesty also declaring, That he hath ever bin fully satisfied in Judgment and Conscience, both of the Reformed Religion, and against the Roman.

And his Majesty also signed a Declaration to the same effect and purpose; not only to satisfy his loving Subjects, but all the Christian World, and therefore signed the *Confession of Faith*, established by Act of Parliament with that Bond.

The King likewise signed a Declaration of the same date, expressing the Contents in the said Letter, and that he will ever maintain the True Christian and Reformed Religion established in the Kingdom of *Scotland*; and to that end he hath signed the *Confession of Faith*, established by Act of Parliament 1557, with the Bond in defence of it.

July 23. Dispute at *Aberdeen* about the Covenant.

But while the Marques was busy at Court, the *Covenanters* in *Scotland* were going on for more Subscriptions to the Covenant; and because the North were for the most part against the Covenant, some Noble-

Noblemen and Miniſters went on the 23d of *July* (being that day 12-month the Stool was thrown at the Biſhops head) to *Aberdeen*, hoping to convince the Doctors there of the Lawfulneſs of the Covenant. But the Doctors violently argued againſt the ſame, becauſe it was a Combination without Warrant or Authority. And the *Covenanters* gave out to the ſaid Doctors at *Aberdeen*, that the *Lord-Commiſſioner* was ſatisfied with the Covenant upon the offer of that Explication, (which is formerly mentioned) but at the Commiſſioner's Return he declared the contrary. 14 *Caroli.*

The Marqueſs at his Return to *Hally-Rood Houſe*, on the 10th of *Auguſt*, found things in a much worſe poſture than he had left them; for at a Convention of Buroughs, a few days before, they had enacted, That none might be Magiſtrates, or bear Office in any Burrough, except he had taken the Covenant. And the *Covenanters* were reſolved that *Biſhops ſhould have no Vote* in the Aſſembly, and that *Epiſcopacy ſhould be aboliſhed*, and the *Articles of Perth condemned*, and all under pain of Excommunication were to *ſign the Covenant*. The *Marqueſs* at his Return finds things in a bad condition.

The Marqueſs being ſurpriſed with ſo great a change of the ſtate of Affairs, gave Account thereof to the King, and reſolved not to call a General Aſſembly till he firſt went in Perſon to aquaint his Majeſty with the hazard he was like to run. And gives the King an Account thereof.

On the 13th of *Auguſt* the Covenanters came to demand his *Anſwer* to their *Petitions*. To whom he declared, that the King's *Anſwer* was ſo full of Grace and Goodneſs, that he will leave nothing undone that can be expected from a juſt Prince to ſave the Nation from Ruin; and that he finds they cannot be well ſetled without a Parliament and Aſſembly, and ſo delivered his Majeſty's Anſwer to them to that purpoſe.

The Marqueſs alſo aſſured them, that immediately upon their Obedience he ſhould indict an Aſſembly and Parliament, as he was inſtructed, *Order* and *Government* being firſt eſtabliſhed again in the Country as it was before theſe Combuſtions. But they continued ſtill treating about this till the 20th of *Auguſt*: Whereupon the Marqueſs craved again the ſpace of Twenty days to go to Court, and bring an Anſwer from his Majeſty. Which he did to gain more time, and to adviſe his Majeſty to break with them, or to give way to the violence of their Zeal; and in that time alſo to attend the diſpatch of Affairs at Court concerning the Kingdom of *Scotland*. So he took Journy on the 25th of *Auguſt* towards *London*. The *Marqueſs* deſires twenty days time to go to the King and return.

The Marqueſs before his Journey thought fit to conſult with the Earl of *Traquire*, *Roxborough* and *Southesk*, what Advice to offer his Majeſty. Who agreed upon Articles to be preſented to his Majeſty, ſome of which were to the effect following. He conſults with 3 Lords, not *Covenanters*.

'SInce the Cauſe and Occaſion of all the Diſtractions which of late 'have hapned both in Kirk and Polity, ſeems to proceed from the 'conceived Fears of *Innovation of Religion* and *Laws*, and that the *Ser-* 'vice-Book, *Book of Canons*, and the *unbounded Power of Biſhops* in the 'High-Commiſſion, (never yet warranted by Law) was that which firſt 'gave ground and occaſion to the Subjects Fears; and ſeeing the ſaid 'Books are offered to be proved to be full of Tenets and Doctrines 'contrary to the Reformed Religion, profeſſed and eſtabliſhed within 'this Kingdom, and the ſame introduced againſt all Form and Cuſtom Articles of advice offered to his Majeſty, to have the *Confeſſion of Faith ſigned by his Father*, to be revived.

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'practiſed in the Church, it were an Act of Juſtice well beſeeming ſo 'gracious and glorious a King, abſolutely and fully to diſcharge the 'ſame.

'And ſeeing likewiſe this *High-Commiſſion* hath given ſo great Of-'fence to ſo many of your Majeſties good Subjects, and as is conſtant-'ly affirmed, is of ſo vaſt and unlimited a Power, and contrary to ex-'preſs Laws, by which all ſuch Judicatories not eſtabliſhed by Act of 'Parliament, are declared to be of no force; it would much conduce 'to the ſatisfaction of this People, if this *Judicatory were diſcharged* till 'the ſame were eſtabliſhed by Law.

'The Practice of the *five Articles of Perth* hath been withſtood by 'the moſt conſiderable part of the Subjects of all qualities both Laity 'and Clergy, whereby great Diviſions have been in this Church, and 'are like to have an increaſe, if your Majeſty (in your accuſtomed 'Goodneſs and Care of this poor Kirk and Kingdom) ſhall not be 'graciouſly pleaſed to allow that the preſſing of theſe Articles may be 'forborn until the ſame may be conſidered of in an Aſſembly and Par-'liament. And although We conceive *Epiſcopacy* to be a Church-Go-'vernment moſt agreeable with Monarchy, yet the *illimited* Power 'which the Lords of the Clergy of this Kingdom have of late aſſumed to 'themſelves in admitting and depoſing of Miniſters, and in divers other 'of their Acts and Proceedings, gives us juſt ground humbly to beg 'that your Majeſty may be pleaſed to *remit* to the Conſideration of 'the Aſſembly *this their unwarranted Power.*

'The ſenſe and apprehenſion of theſe foreſaid Evils hath ſtirred up 'the Subjects without warrant of Authority to *join in a Bond and Co-'venant* to withſtand the foreſaid *Innovations*, and for maintenance of 'the *true Religion*, the *King's Majeſtie's Perſon*, and *of one another* in 'the defence thereof.

'If Your Majeſty might be graciouſly pleaſed in ſupplement hereof, 'to allow or warrant ſuch a *Confeſſion of Faith*, with ſuch a *Covenant*, 'or *Bond* joined thereunto, *as that ſigned by Your Majeſty's Royal Fa-'ther*, and by his Command by the *Council*, and moſt part of the King-'dom, We are very confident the ſame would be a ready and forcible 'mean to quiet the preſent Diſorders, at leaſt to ſatisfy moſt part. 'And if Your Majeſty ſhall condeſcend to the foreſaid Propoſitions, 'We are hopeful, if not confident, it ſhall give ſo *great content* to ſo 'conſiderable a number of your Majeſty's good Subjects of all quali-'ties, that if any ſhall ſtand out, or withſtand your Majeſty's Royal 'Pleaſure, after the publication thereof, they may be overtaken by 'Your Majeſty's Power within this Kingdom, without the Help or 'Aſſiſtance of any Force elſewhere.

'And becauſe it is to be hoped that all that hath paſt in this Buſineſs, 'and all the Courſes that have been taken herein by the Subjects, hath 'proceeded from the aforeſaid *fears of Innovations*, and not out of any 'Diſloyalty or *Diſſatisfaction to Soveraignty*; and that Your good Peo-'ple may ſtill taſte the fruits of your Grace and Goodneſs, We wiſh 'Your Majeſty may be graciouſly pleaſed, upon the *Word of a King*, 'to pardon what is paſt, *&c.*

Signed

Auguſt 1638.

Hamilton. | *Roxborough.*
Traquaire. | *Southesk.*

When

14 *Caroli.*

When the Marqueſs arrived at Court, he told his Majeſty, That unleſs he enlarged his Inſtructions, he was to treat no further; and ſince he ſaw the Contempt was like to have bin put on the laſt Inſtructions, ſo as he durſt not make uſe of them, leſt his Majeſty ſhould be expoſed to new Affronts. And told his Majeſty further, That nothing ſeemed ſo likely a courſe for removing of Jealouſies, and ſetling of things, as the *Authoriſing the Covenant*, that upon King *James* his command, was drawn up in the Year 1580, containing the renunciation of all the Articles of Popery, which was the ground of the preſent Covenant.

The Marqueſs arrives at Court.

And now the King reſolved to try the utmoſt of yielding, for the recovery of his Subjects in *Scotland*, therefore again he diſpatched his Commiſſioner from *Oatlands*, on the 10*th* of *September*, with ample Inſtructions, to this effect.

Oatlands, September 9.

New Inſtructions to the Marqueſs, impouring him to revoke the *Service-Book*, *Canons*, &c.

CHARLES *R.*

1. YOu ſhall, in full and ample manner, by Proclamation or otherwiſe as you ſhall ſee cauſe, declare, That We do abſolutely revoke the Service-Book, the Book of Canons, and the High-Commiſſion.

The Marqueſs gets new Inſtructions.

2. You ſhall likewiſe diſcharge the practice of the Five Articles of Perth, notwithſtanding the Act of Parliament, which doth command the ſame: And in the ſaid Proclamation you ſhall promiſe, in Our Name, That if in the firſt Parliament to be held, the three Eſtates ſhall think fit to repeal the ſaid Act, We ſhall then give Our Roial Aſſent to the ſaid Act of Repeal.

3. You ſhall likewiſe declare, That We have enjoined and authoriſed the Lords of Our Privy-Council, to ſubſcribe the Confeſſion of Faith, and Bond thereto annexed, which was ſubſcribed by Our dear Father, and enjoined by his Majeſty's Authority in the Year 1580. And likewiſe have enjoined them to take order, that all Our Subjects ſubſcribe the ſame.

4. You ſhall likewiſe declare, That Our meaning and pleaſure is, That none of Our Subjects, whether Eccleſiaſtical or Civil, ſhall be exempted from Cenſures, and Trial of the Parliament, or General Aſſembly, thoſe Courts proceeding againſt them in due form and Order of Law.

5. You ſhall likewiſe declare, That We are graciouſly content, that the Epiſcopal Government already eſtabliſhed, ſhall be limited with ſuch Inſtructions as may ſtand with the Laws of this Church and Kingdom already eſtabliſhed.

6. You ſhall offer a Pardon by Proclamation, and promiſe in it a Ratification of the ſame in Parliament to all Our good Subjects who ſhall reſt ſatisfied with this Our gracious Declaration, and hereafter carry themſelves as becomes peaceable and dutiful Subjects.

14 Caroli.

7. You shall procure an Act of Council, wherein every Counsellor shall declare himself fully satisfied with this Our Declaration, and (if you can) they shall moreover solemnly Swear and Protest to adhere to Us; and with their Lives, Fortunes, and whole Means, assist Us in the punishing and repressing all such as shall be found to be disobedient, or persist in turbulent and unpeaceable Courses; and if any of Our Counsellors shall refuse so to do, you shall presently remove him from the place of a Counsellor.

8. You shall likewise require every Lord of the Session to subscribe the Confession of Faith above mentioned, and the Bond thereunto annexed; as likewise to make the same protestation in all things, as in the last Instruction is required of a Counsellor; and if they shall refuse to do it, you shall then certify to Us the Names of such Refusers.

9. You shall likewise declare that Our Pleasure is, That a most Solemn Fast be indicted upon a set Day throughout the whole Kingdom, which shall precede the General Assembly in some competent time. The Causes shall be declared, To beg God's Blessing on that Assembly; to beg of God a peaceable end to the Distractions of this Church and Kingdom; with the aversion of God's heavy Judgment from both. The form of indiction, We desire to be according to the most laudable custom of this Church in most extraordinary Cases.

10. You shall labour as much as in you lieth, that both the Electors, and Persons elected to be Commissioners at the General Assembly, shall be the same that were wont to be in My Father's Time, and the same Forms to be observed, as near as may be; but yet if that cannot be obtained, it shall be no let to you from indicting a General Assembly, but you shall go on it by all such means as you shall find most advantagious to Me in that Service.

11. The Time and Place of the Assembly (Edinburgh only excepted) We leave to your Judgment and Pleasure.

12. You shall likewise presently indict a Parliament; the Time and Place We leave likewise to you.

13. Whether you shall first publish Our Gracious Offers, or first indict the Assembly, We leave it to your own Judgment as you shall see cause.

14. If you shall find the most considerable part of the Council not to acquiesce in this Our Gracious Declaration, and not to promise hearty and chearful Assistance to Us, as is above expressed, or not a considerable part of other Lords and Gentlemen, in case Our Council refuse, then you shall neither indict Parliament nor Assembly, nor publish any of my Gracious Offers, except only the Abolishing of the Service-Book, Book of Canons, and High-Commission, but leave them to themselves, and to such further order as We shall be forced to take with them; only if you foresee a Breach, you shall give timely warning thereof to such as have stood well-affected to Our Service, that so they may in due time provide for their safety, and your Self is to return to Us with expedition.

15. You must, by all means possible you can think of, infuse into the Ministers what a wrong it will be to them, and what an oppression upon the freedom of their Judgment, if there must be such a number of Laicks to over-rule them, both in their Elections for the General Assembly, and afterwards.

His

14 *Caroli.*

His Majeſty did alſo ſign Inſtructions for the Marqueſs his Behaviour with the Biſhops, to deſire the Biſhop of St. *Andrews* to leave his Chancellor's place, to accept of the ſum of 2500 *l. Sterling*, which ſhould be done without injury to himſelf, and more to his advantage.

Likewiſe to intimate to them, That his Majeſty intends to indict a General Aſſembly, and abſolutely to diſcharge the Books of *Service*, and *Canons*, and *High-Commiſſion*; and that the five Articles of *Perth* be eſteemed as indifferent; and that though his Majeſty will maintain Epiſcopacy, yet will be content that their Power be limited according to the Law.

The Marqueſs in his return met with the *Scotiſh* Biſhops, and communicated to them the Contents of the King's Commands.

The Marqueſs being thus again diſpatched at Court, took Journey for *Scotland*, and met the *Scotiſh* Biſhops in the way, paſſing through *York-ſhire*, to whom he ſignified his Majeſty's Pleaſure; that the King inclined to indict a General Aſſembly, and abſolutely to diſcharge the Books of *Service*, and *Canons*, and the *High-Commiſſion*; and that the five Articles of *Perth* be eſteemed as indifferent: and that though the King will maintain *Epiſcopacy*, yet he will be content that their Power be limited according to the Laws. But the Biſhops were no ways pleaſed with what the Marqueſs had ſaid unto them was the King's Pleaſure, and ſpoke againſt it with great vehemency: But the Arch-Biſhop of St. *Andrews* was the moſt moderate of any of them, and ſeemed to be willing to take 2500 *l. Sterling* Compoſition to quit his place of Chancellor.

The Biſhops ſorrowful.

On the 17*th* of *September* the Marqueſs arrived at *Hally-Rood-Houſe*, where he found Jealouſies begin to ariſe, between ſome of the wiſer Miniſters, and the Lords for the Covenant concerning the Lay-Ruling Elders.

Jealouſies between the Miniſters & Lay-Ruling Elders.

On the 20*th* the *Covenanters* ſent to the Marqueſs to know when they might wait on him to know his Majeſty's Pleaſure; and he appointed the next day, *Septemb.* 21. When they came, he told them, That the King had granted them all that they deſired; and more alſo, a Free Aſſembly, and a Parliament, which ſhould be immediately indicted, and opened the Particulars unto them; and they ſeemed reaſonably well ſatisfied therewith, only they preſſed him *to deſiſt from renewing the Confeſſion of Faith*, for they clearly ſaw that that would diſſatisfy a great many of their Party. But the Marqueſs having made moſt of the Privy-Council ſure before-hand, and that by Oath, reſolved to hear of no delay.

The *Covenanters* againſt the *Confeſſion of Faith.*

The next morning the Earl of *Rotheſs*, and many of the Covenanting Lords, deſired acceſs; and in the Name of the reſt ſaid, They heard the Council were to ſign the Old *Confeſſion of Faith*, and to publiſh a Declaration there-about, which they deſired might be delayed till *Monday* next, and they doubted not to be able to give good Reaſons why they ſhould not do it: And being called into the Council, they raiſed a long Debate which laſted about four hours; but in the end no delay of publiſhing the Declaration was granted, and it was carried by Vote in the Council, That the *Confeſſion of Faith* ſhould be preſently ſigned. Next, that the Proclamation of *Grace* ſhould be preſently publiſhed, and another Proclamation, that an *Aſſembly* ſhould preſently

The *Covenanters* labour to hinder the publication of the *Confeſſion of Faith*, but in vain.

An. 1638.

presently meet at *Glascow* the 21 of *November*, and that a *Parliament* should meet at *Edinburgh* the 15*th* of *May* next.

The Proclamation of the 9*th* of *Sept.* was published, but met with a Protestation.

Then the Council passed an Act, declaring their full satisfaction with his Majesty's Concessions, together with the Letter of Thanks to his Majesty, expressing their full satisfaction, with large engagements to adhere constantly to his Service; and so they arose at four of the Clock, having sat that day from seven in the morning. So the Proclamation of the 9*th* of *September* following, was immediately sent to the Cross at *Edinburgh*, which met with a Protestation; and though the Council seemed displeased at it, yet they could not be perswaded to pass a Censure upon the Protestation as Seditious.

The Copy of a Proclamation made at Edinburgh, Sept. 22.

CHARLES, &c. To Our Lovits, Our Heralds, Messengers, Our Sheriffs in that Part conjunctly and severally, specially constitute, greeting.

By Proclamation, the King makes void & *null* all Acts of Council tending to establish the *Service-Book*, *Canons*, &c.

FOrasmuch as the cause and occasion of all the Distractions which have hapned of late, both in Church and Common-Wealth, of this our Ancient Kingdom, have proceeded from the conceived Fears of Innovation of Religion and Laws. To free all our Good Subjects from the least suspicion of any intention in Us to innovate any thing, either in Religion or Laws; and to satisfy, not only their Desires, but even their Doubts, We have discharged, and by these presents do discharge the Service-Book, Book of Canons, and High-Commission, and the practice of them, or any of them; and by these Presents annulls and rescinds all Acts of Council, Proclamations, and other Acts and Deeds whatsoever that have bin made and published for establishing them, or any of them; and declare the same to be null, and to have no force or effect in time coming. And being informed, that the urging of the practice of the five Articles of Perth-Assembly hath bred great Distraction and Division in the Church and State; We have bin graciously pleased to take the same into our consideration, and for the Quiet and Peace of Church and State, do not only dispense with the practice of the said Articles; but also discharge, like-as by these Presents We discharge all and whatsoever Persons from urging the practice thereof, upon either Laick or Ecclesiastick Person whatsoever. And We do hereby free all our Subjects from all Censure and Pain, whether Ecclesiastical or Secular, for not urging, practising, or obeying the same, notwithstanding any thing contained in the Acts of Parliament, or General Assembly to the contrary. And because it hath bin (to the disgrace of Government) dispersed and surmised throughout this our Kingdom, that some of our Subjects have exercised such illimited and unwarranted Power, and have held themselves exempt from censure or punishment, to which other Subjects are liable; We do by these presents declare, That if any of our Subjects, whether Ecclesiastical or Civil, of whatsoever Quality, Title, or Degree, have, or shall at any time presume to do any such Act, or assume to themselves any such exemption or Power, that

14 *Caroli.*

that they ſhall, like as by theſe Preſents We make and ordain them to be liable to the Trial and Cenſure of Parliament, General Aſſembly, or any other Judicatories competent, according to the nature and quality of the Offence. And for free entry of Miniſters, that no other Oath be adminiſtred unto them, than that which is contained in the Act of Parliament. And to give our Subjects full aſſurance, that We never intend to admit of any Change or Alteration in the True Religion already eſtabliſhed and profeſſed in this our Kingdom. And that all our good People may be fully and clearly ſatisfied of the reality of our Intentions towards the maintenance of the Truth, and integrity of the ſaid Religion; We have thought fit and expedient to enjoin and authorize, like as We by theſe Preſents do require and command all the Lords of our Privy-Council, Senators of our College of Juſtice, and all Judges and Magiſtrates to Burrough and Land, and all other our Subjects whatſoever, to ſubſcribe and renew the Confeſſion of Faith, ſubſcribed at firſt by our dear Father and his Houſhold, in the Year of God 1580, thereafter by perſons of all Ranks, in the Year 1581, by Ordinance of the Lords of Secret Council, and Acts of the General Aſſembly. Subſcribed again by all ſorts of Perſons in the Year 1590, by a New Ordinance of Council, at the deſire of the General Aſſembly, with their General Bond of Maintenance of the True Religion, and the King's Perſon. And for that effect We do require the Lords of the Council to take ſuch courſe anent the foreſaid Confeſſion and General Band, that it may be ſubſcribed and renewed throughout the whole Realm with all poſſible Diligence. And becauſe We will not leave in our Subjects minds the leaſt ſcruple, or doubt of our Roial Intentions, and Real Reſolutions; We have given Warrant to our Commiſſioner to indict a Free General Aſſembly to be holden at Glaſgow the 21 of November, in this preſent Year 1638, and thereafter a Parliament to be holden at Edinburgh, the 15th day of May 1639, for ſetling a perfect Peace both in Church and Common-Weal of this Kingdom. And becauſe it is likely that the Diſorders and Diſtractions which have hapned of late, have bin occaſioned through the conceived Fears of Innovations of Religion, and Laws, and not out of any Diſloyalty or Diſaffection to Soveraignty; We are graciouſly pleaſed abſolutely to forget what is paſt, and freely to forgive all By-gons to all ſuch as ſhall acquieſce to this our Gracious Pleaſure, and carry themſelves peaceably, as Loial and Dutiful Subjects; and We ſhall ratify and approve the ſame in our next enſuing Parliament. And that this Aſſembly may have the better ſucceſs, and more happy concluſion, Our Will is, That there be a Solemn Faſt proclaimed and kept by all our Loving Subjects of this Kingdom, fourteen days before the beginning of the ſaid Aſſembly; The cauſes thereof to be, A begging from God a Bleſſing upon that Aſſembly, and a peaceable end to the Diſtractions of this Church and Kingdom, with the averſion of God's heavy Judgment from both. And Our pleaſure is, That this Faſt be kept in the moſt ſolemn manner, as hath bin in this Church at any time heretofore, upon the moſt extraordinary occaſion. Our Will is therefore, and We charge you ſtraitly, and command, That incontinent theſe our Letters ſeen, ye paſs, and make publication hereof by open Proclamation at the Market-

An. 1638. Market-Crosses of the Head-Boroughs of this our Kingdom, wherethrough none pretend ignorance of the same.

Given under Our Signet, at Our Court of Oatlands, the 9th day of September, 1638.

At the same time when this Declaration was proclaimed, another was also proclaimed for indicting an Assembly at *Glasgow*, *Novemb.* 21. and another for a Parliament at *Edinburgh* the 15*th* of *May*. The Protestation in answer to this Declaration doth follow; only for the present We insert in this place so much of that Protestation as relates in answer to the *Confession of Faith*, ordered by the King to be subscribed unto; and afterwards in the *Appendix*, the rest of this Protestation, being very long, is at large set down.

The Protestation of the Noblemen, Barons, Gentlemen, Burroughs, Ministers, and Commons, &c. in answer to the King's Declaration of the 9*th of* September.

'THat this Proclamation commandeth all his Majesty's Subjects, for 'maintenance of the Religion already established, to subscribe 'and renew the *Confession of Faith*, subscribed before in the Year 1580, 'and afterwards; and requireth the Lords of the Privy-Council to take 'such course anent the same, and general Band of maintenance of the 'True Religion, and the King's Person, that it may be subscribed and 'renewed throughout the whole Kingdom, with all possible diligence, 'which cannot now be performed by us: For although of late we 'would have bin glad that our selves, and other his Majesty's Sub-'jects had bin commanded by Authority to swear and subscribe the Ge-'neral *Confession of Faith* against Popish Errors and Superstitions, and 'now would be glad that all others should join with Us in our late 'Covenant and Confession, descending more especially to the Nova-'tions and Errors of the Time, and obliging Us to the Defence of Re-'ligion, and of the King's Majesty's Person and Authority, and for 'these ends to the mutual defence every one of Us of another; Yet 'can We not now, after so necessary and so solemn a Specification, re-'turn to the General, for the Reasons following.

1. 'No means have bin left unassayed against Our late *Confession of* 'Faith and *Covenant* so solemnly sworn and subscribed: for first, We 'were prest with the rendring and rescinding of our *Covenant*; next, 'an alteration in some substantial Point, was urged; thirdly, A De-'claration was mentioned, which tended to the enervation thereof; 'and now We find in the same strain, that We are put to a new Trial, and 'the last mean is used more subtil than the former. That by this new 'Subscription to Our late Covenant and Confession, may be quite ab-'sorbed and buried in Oblivion, that where it was intended and sworn 'to be an Everlasting Covenant never to be forgotten, it shall be ne-'ver more remembred, the one shall be cried up, and the other drowned 'in the noise thereof. And thus the new Subscription now urged, (al-'though in a different way) shall prove equivalent to the rendring of 'the Covenant, or what of that kind hath before bin essayed; like as

'the

14 *Caroli.*

'the Reaſons againſt the rendring of the Covenant, do militate directly 'againſt this new Motion.

2. 'If We ſhould now enter upon this new Subſcription, We would 'think our ſelves guilty of mocking God, and taking his Name in 'vain; for the Tears that began to be poured forth at the ſolemnizing 'of the Covenant, are not yet dried up and wiped away; and the joi-'ful noiſe which then began to ſound, hath not yet ceaſed; and there 'can be no new neceſſity from Us, and upon our part, pretended for a 'ground of urging this new Subſcription, at firſt intended to be an Ab-'juration of Popery upon Us, who are known to hate Popery with an 'unfained hatred, and have all this Year by-gone, given large teſti-'mony of our Zeal againſt it. As We are not to multiply Miracles 'on God's part, ſo ought We not to multiply ſolemn Oaths and Co-'venants upon our part; and thus to play with Oaths, as Children do 'with their Toies, without neceſſity.

3. 'Neither would We in giving way to this new Subſcription, 'think our ſelves free of Perjury; for as We were driven by an un-'declineable neceſſity to enter into a mutual Covenant, ſo are We 'bound, not only by the Law of God, and Nature, but by our ſo-'lemn Oath and Subſcription, againſt all diviſive Motions, to pro-'move and obſerve the ſame without Violation; and it is moſt mani-'feſt, that having already refuſed to render, alter, or deſtroy our Co-'venant, nothing can be more contrary and adverſe to our pious In-'tentions, and ſincere Reſolutions, than to conſent to ſuch a Subſcrip-'tion and Oath, as both in the intention of the Urgers, and in the 'nature and condition of the Matter urged, is the ready way to ex-'tinguiſh, and to drown in oblivion the Band of our Union and Con-'junction, that they be no more remembred. In this caſe We 'are called to lay ſeriouſly to our hearts; firſt, That We have ſworn 'that We ſhall neither directly nor indirectly ſuffer our ſelves to be 'divided and withdrawn from this bleſſed and loial Conjunction, 'which conſiſteth not only in the *General Confeſſion*, but alſo in our 'Explanation and Application thereof; but on the contrary, ſhall by 'all lawful means labour to further and promove the ſame. 2ly, That 'our Union and Conjunction may be obſerved without violation, '(and ſo without mutilation of our Application) we call the living 'God to Witneſs, as We ſhall anſwer to Chriſt in the great Day, '*&c.*

4. 'This new Subſcription, inſtead of performing our Vows, 'would be a real Teſtimony and Confeſſion before the World, that 'We have bin Tranſgreſſors in making raſh Vows; that We repent 'our ſelves of former zeal and forwardneſs, againſt the Particulars ex-'preſt firſt in our Supplications, Complaints, and Proteſtations; and 'next abjured in our *Covenant*, that We in our judgment prefer 'the *General Confeſſion* unto this, which neceſſarily was now made more 'ſpecial; and that We are now under the fair pretext and honeſt co-'ver of a New Oath, recanting and undoing that, which upon ſo 'mature deliberation We have bin doing before. This beſides all 'other Evils, were to make Way, and open a Door, to the re-entry 'of the Particulars abjured, and to repent our ſelves of our chiefeſt 'Conſolations, and to lye both againſt God and our own Souls.

5. 'It hath bin often objected, That our *Confeſſion of Faith*, and '*Covenant*, was unlawful, becauſe it wanted the Warrants of publick

An. 1638. 'Authority; and it hath bin anſwered by Us, That We were not deſti-
'tute of the Warrant Civil and Eccleſiaſtical, which authorized the
'former Covenant. And although We could have wiſhed that his
'Majeſty had added both his Subſcription and Authority unto it, yet
'the leſs conſtraint from Authority, and the more liberty, the leſs
'hypocriſy and more ſincerity hath appeared. But by this new Sub-
'ſcription urged by Authority, We both condemn our former Sub-
'ſcription as unlawful, becauſe alleged to be done without Authority;
'and pre-condemn alſo the like laudable courſe in the like neceſſity to
'be taken by *Poſterity*.

6. 'What is the uſe of Merch-ſtones upon Borders of Lands; the
'like uſe hath *Confeſſions of Faith* in the Kirk, to diſterminate
'and divide betwixt Truth and Error, and the renewing and ap-
'plying of *Confeſſions of Faith* to the preſent Errors and Corrupti-
'ons, are not unlike riding of Merches; and therefore to content
'our ſelves with the general, and to return to it, from the particular
'Application of the *Confeſſion* neceſſarily made upon the invaſion or
'creeping in of Errors within the borders of the Kirk, if it be not a
'removing of the Merch-ſtone from the own place, it is at leaſt the
'hiding of the Merch in the Ground that it be not ſeen, which at this
'time were very unſeaſonable for two Cauſes; one is, becauſe Pope-
'ry is ſo pregnant and powerful in this Land, as We have learned of
'late. The other, becauſe the Papiſts, who upon the urging of the
'*Service-Book* and *Canons*, have preſumed of our return to *Rome*,
'will upon this our Subſcription return unto their ancient and won-
'ted preſumption, none of us will deny; but the large *Confeſſion of*
'*Faith* regiſtred in the Acts of Parliament, doth by conſequence con-
'tain this ſhort *Confeſſion* and *Abjuration*: Yet were it not ſufficient
'againſt Popery to ſubſcribe the one with the other: How then
'ſhall we think that the more general *Confeſſion* and *Abjuration* at this
'time, when the urging of ſuch Popiſh Books have extorted from Us
'ſo neceſſary an Application, and doth ſtill call for a Teſtimony, to
'be compleat enough without it?

7. 'The Papiſts ſhall hereby be occaſioned to renew their old Ob-
'jections againſt Us, *Annuas & menſtruas fides de Deo decernunt*, That
'our Faith changeth with the Moon, or once in the Year. Other Re-
'formed Kirks might juſtly wonder at our Inconſtancy in changing
'our *Confeſſion* without any real neceſſity, and that in one and the
'ſame Year it cometh forth larger and more particular, then ſhorter
'and more general: and our Adverſaries will not fail to traduce us, as
'troublers of the Peace of the Kirk and Kingdom without any neceſ-
'ſary Cauſe.

8. 'It will likewiſe prove a Confirmation of their Error, who think
'they may both ſubſcribe the *Confeſſion of Faith*, and receive the *Ser-*
'*vice-Book* and *Canons*; which is not only a direct ſcandalizing of them,
'but alſo a ready way to put a Weapon in their hands againſt our
'ſelves, who maintain and profeſs, that theſe and ſuch other Evils are
'abjured in the *Confeſſion of Faith*.

9. 'If We ſhould now ſwear this *Confeſſion*, We ſhould be obliged
'by our Oath to maintain *Perth*-Articles, which are the Innovations
'already introduced in the Worſhip of God, and to maintain Epiſco-
'pacy, with the Civil Places, and Power of Kirkmen, becauſe We
'are bound to ſwear this *Confeſſion* by virtue of, and conform unto the

'King's

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'King's Command, ſigned by his Sacred Majeſty, of the date *Septem-*
'*ber* 9. 1638. (theſe are the very words ſubjoined to the *Confeſſion*
'and *Band*, and prefixed to the Subſcriptions). And it cannot be de-
'nied, but any Oath miniſtred unto Us, muſt either be refuſed, or elſe
'taken, according to the known Mind, profeſſed Intention, and ex-
'preſs Command of Authority urging the ſame. And it is moſt mani-
'feſt, that his Majeſty's Mind, Intention, and Commandment, is no
'other, but that the *Confeſſion* be ſworn for the maintenance of Reli-
'gion, as it is already or preſently profeſſed, (theſe two being coinci-
'dent, altogether one and the ſame, not only in our common form of
'ſpeaking, but in all his Majeſty's Proclamations) and thus as it in-
'cludeth, and containeth within the compaſs thereof, the foreſaid No-
'vations and Epiſcopacy, which under that Name were alſo ratified,
'in the firſt Parliament holden by his Majeſty. And where it may be
'objected, That the Counſellors have ſubſcribed the *Confeſſion of Faith*,
'as it was profeſſed 1580, and will not urge the Subſcription in ano-
'ther ſenſe upon the Subjects. We anſwer, firſt, The Act of Council
'containing that Declaration, is not as yet publiſhed by Proclamation.
'Secondly, If it were ſo publiſhed, it behoved of neceſſity, either to
'be repugnant to his Majeſty's declared Judgment and Command, which
'is more than to ſwear without Warrant from Authority, (a fault, al-
'though unjuſtly often objected unto Us); or elſe We muſt affirm the
'Religion in the Year 1580, and at this time, to be altogether one and
'the ſame; and thus muſt acknowledg, that there is no Novation of
'Religion: which were a formal contradiction to that We have ſworn.
'Thirdly, By approving the Proclamation anent the Oath to be ad-
'miniſtred to Miniſters, according to the Act of Parliament, which is
'to ſwear ſimple obedience to the *Diocesan* Biſhop, and by warning
'all Arch-Biſhops and Biſhops to be preſent, as having Voice and
'Place in the Aſſembly, they ſeem to determin, that in their Judg-
'ment, The *Confeſſion of Faith*, as it was profeſſed 1580, doth conſiſt
'with Epiſcopacy; whereas We by our Oath have referred the trial
'of this, or any other Queſtion of that kind, to the General Aſſem-
'bly and Parliament.

10. 'This Subſcription and Oath, in the Mind and Intention of
'Authority, and conſequently in Our ſwearing thereof, may conſiſt
'with the Corruptions of the *Service-Book* and *Canons*, which We
'have abjured as other heads of Popery. For this preſent Proclama-
'tion, and his Majeſty's former Proclamations at *Linlithgow*, *Striveling*,
'*Edinburgh*; The Lords of the Privy-Council, in their approbation
'of the ſame, and the Prelates and Doctors who ſtand for the *Service-*
'*Book* and *Canons*, do all ſpeak plainly, or impart ſo much, That
'theſe Books are not repugnant to the *Confeſſion of Faith*, and that
'the introducing of them is no Novation of Religion or Law; and
'therefore We muſt either refuſe to ſubſcribe now, or We muſt con-
'feſs contrary to our late Oath, and to a clear Truth, That the *Ser-*
'*vice-Book* and *Canons* are no Innovations in Religion. And though
'the preſent Books be diſcharged by Proclamation, yet if We ſhall, by
'any Deed of our own, teſtify, that they may conſiſt with our *Con-*
'*feſſion of Faith*, within a very ſhort time, either the ſame Books, or ſome
'other like unto them, with ſome ſmall change, may be obtruded up-
'on Us, who by our abjuration (if We adhere unto it) have freed
'both our ſelves, and the Poſterity of all ſuch Corruptions, and have

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'laid a fair Foundation for the pure Worſhip of God in a time 'coming.

11. 'Although there be indeed no ſubſtantial difference between 'that which We have ſubſcribed, and the *Confeſſion* ſubſcribed 1580, 'more than there is between that which is hid, and that which is re- 'vealed; a March-ſtone hid in the Ground, and uncovered; betwixt 'the Hand cloſed and open, betwixt a Sword ſheathed and drawn; or 'betwixt the large *Confeſſion*, regiſtrate in the Acts of Parliament, and 'the ſhort *Confeſſion*, or (if We may with reverence aſcend yet higher) 'between the *Old Teſtament* and the *New*; yet as to ſheath our Sword 'when it ſhould be drawn, were imprudence; or at the commandment 'of Princes, profeſſedly Popiſh in their Dominions, after the Subjects 'had ſubſcribed both Confeſſions, to ſubſcribe the firſt without the ſe- 'cond; or at the Will of a Jewiſh Magiſtrate, openly denying the '*New Teſtament*, to ſubſcribe the *Old* alone, after that they have ſub- 'ſcribed both, were horrible impiety againſt God, and treachery 'againſt the Truth; Right ſo for Us to ſubſcribe the former apart, as 'it is now urged and framed, without the Explanation and Application 'thereof at this time, when Ours is rejected, and the Subſcribers of 'the former refuſe to ſubſcribe Ours, as containing ſomething ſub- 'ſtantially different, and urge the former upon us, as different from 'Ours, and not expreſſing the ſpecial abjuration of the Evils ſuppli- 'cated againſt by Us, were nothing elſe but to deny and part from Our 'former Subſcription, if not formally, yet interpretatively. Old *Ele- 'azer*, who would not ſeem to eat forbidden Meat, and the Confeſ- 'ſors and Martyrs of old, who would not ſeem, by delivering ſome 'of their Papers, to render the Bible, or to deny the Truth, may 'teach Us our Duty in this Caſe, although our Lives were in hazard 'for refuſing this Subſcription. And who knoweth but the Lord may 'be calling his People now, who have proceeded ſo far in profeſſing 'his Truth at this time, to ſuch Trials and Confeſſions as his faithful 'Witneſſes have given of old; that in this Point alſo Our doing may 'be a Document, both to the ſucceeding Ages, and to other Kirks, to 'whom for the preſent We are made a Spectacle.

12. 'If any be ſo forgetful of his Oath (which God forbid) as to 'ſubſcribe this *Confeſſion* as it is now urged, he doth according to the 'Proclamation, acquieſce in this Declaration of his Majeſty's Will, 'and doth accept of ſuch a Pardon as hath need to be ratified in Par- 'liament, and thus doth turn our Glory unto ſhame, by confeſſing 'our guiltineſs, where God from Heaven hath made Us guiltleſs, and 'by the fire of his Spirit from Heaven, hath accepted of our Service, 'and doth depart from the Commandment of God, the practice of the 'Godly in former Times, and the worthy and laudable example of 'our Worthy and Religious Progenitors; in obedience whereof, and 'conform to which, We made profeſſion to ſubſcribe; for there is 'no particular Act required of Us, to whom the Pardon is preſented 'in this Proclamation, but this new ſubſcription allanerly.

13. 'The *General Band* now urged to be ſubſcribed, as it contain- 'eth many Clauſes not ſo fitting the preſent time as that wherein it was 'ſubſcribed, ſo is it deficient in a Point at this time moſt neceſſary, of 'the reformation of our Lives, that We ſhall, anſwerably to our Pro- 'feſſion, be Examples to others, of all Godlineſs, Soberneſs, and 'Righteouſneſs, and of every Duty We owe to God and Man, with-

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'out which We cannot now ſubſcribe to this *Confeſſion*, leſt We looſe 'the Bands to Wickedneſs, ſeem to repent of our former Reſolutions 'and Promiſes, and chuſe to have our portion with Hypocrites; pro-'feſſing and ſwearing, That We know God, but in our Works deny-'ing him, being abominable, diſobedient, and unto every good Work 'reprobate.

14. 'Since the Narrative of the *General Band* is now changed, and 'ſome Lines, expreſſing at length the Papiſts and their Adherents, to 'be the Party from whom the danger to Religion, and the King's Ma-'jeſty, was threatned, are left out, and no deſignation made of the 'Party from whom the danger is now threatned, We are made either 'to think, that our Subſcription at this time is unneceſſary, or to ſu-'ſpect that We who have ſupplicated and entred into Covenant, are 'underſtood to be the Party; eſpecially ſince the Lords of Council 'have, in the Act *Septemb.* 22. ratifying the Proclamation, found 'themſelves bound to uſe their beſt endeavours, That all his Majeſty's 'good Subjects may reſt ſatisfied with his Majeſty's Declaration; ſince 'alſo We have bin (although undeſervedly) challenged of Diſorders, 'Diſtractions, and Dangers to Religion, and his Majeſty's Authority; 'and ſince in the foreſaid Act, and in the Miſſive directed to his Ma-'jeſty, the Lords of the Council offer their Lives and Fortunes to his 'Majeſty, in repreſſing all ſuch as ſhall hereafter pleaſe to diſturb the 'Peace of this Kirk and Kingdom; which being expreſſed in a gene-'rality, is by many applyed to Us, and interpreted of our adhering 'to our Covenant. We ſhould therefore, by our ſubſcription of the 'Covenant, as it is now conceived, both do directly againſt our own 'Minds, in condemning our Selves, wherein We are Innocent, and 'ſhould conſent to our own hurt, to the ſuppreſſing of the Cauſe 'which We maintain, and to the repreſſing mutually one of us of 'another, directly contrary to our former ſolemn Oath and Subſcrip-'tion.

15. 'The ſubſcribing of this *Confeſſion* by the Lords of his Maje-'ſty's Privy-Council, who by their Place and high Employment, are 'publick Peacemakers; and by others who have not ſubſcribed the 'late *Confeſſion*, will make the Breach wider, and the lamentable Di-'viſion of this Kirk more deſperate than ever before; ſome having 'ſworn to labour, by all lawful means, to recover the former Liberty 'and Purity of Religion; and others maintaining that for Purity 'which is already eſtabliſhed; ſome believing and profeſſing, that 'the Evils ſupplicated againſt, are abjured in that *Confeſſion of Faith*; 'and others maintaining the *Confeſſion of Faith*: And theſe Corrupti-'ons (although for the preſent diſcharged by Authority) not to be 'inconſiſtent.

'And beſides this, many Diviſions and Subdiviſions will enſue, 'to the doleful renting of the Kirk and Kingdom, making way for 'the Wrath and many Judgments of God often threatned by his 'faithful Servants, which all the Godly ought to labour by all means 'to prevent.

'We repreſent alſo to the Honourable Lords of Privy-Council to 'be conſidered, that the Doctrine, Diſcipline, and Uſe of Sacraments 'are ſworn, and the contrary abjured, according to the Word of 'God, and the Meaning of the Kirk of *Scotland* in the Books of 'Diſcipline,

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'Diſcipline, and Acts of Aſſembly; and that in the Oath there is no 'place left to the generality of any Man's Conception of the true Faith 'and Religion, nor to any private Interpretation, or mental reſerva-'tion.

After this was proclaimed, the *Confeſſion of Faith*, as it was at firſt commanded by his Majeſty's Royal Father; as alſo the *Band* annexed, for defence of the Religion now eſtabliſhed, and of the King's Perſon and Authority, with the Subſcriptions of the Commiſſioner and Council to them both, do here follow.

*King's large Declaration, pag. 55.

As to the Confeſſion of Faith of the Kirk of *Scotland*, now ordered to be taken by his Majeſty, it is the ſame * *verbatim* with the Confeſſion of Faith mentioned before the Covenant ſubſcribed unto by the Covenanters; ſo the difference only is in the *Band* annexed to his Majeſty's *Confeſſion of Faith* ordered to be ſubſcribed unto, and here followeth:

The *Band* annexed to the King's *Confeſſion of Faith.*
* Memoires *Hamilton*, pag. 77.

'WE underſubſcribing, and conſidering the ſtrait Link and Con-'junction betwixt the True and Chriſtian Religion preſently '*profeſt within this Realm, and our Sovereign Lord's eſtate and ſtand-'ing, having both the ſelf-ſame Friends and common Enemies, and 'ſubject to the like event of ſtanding and decay; weighing there-'withal the imminent Danger threatned to the ſaid Religion, the pre-'ſervation whereof being dearer to us than whatſoever we have dear-'eſt to us in this Life. And finding in his Majeſty a moſt Honourable 'and Chriſtian Reſolution, to manifeſt Himſelf to the World that Zea-'lous and Religious Prince which he hath hitherto profeſſed; and to 'imploy the Means and Power which God hath put into his hands, aſ-'well to the withſtanding of whatſoever Foreign Force ſhall mean 'within this Land, for alteration of the ſaid Religion, or endangering 'of the preſent State, as to the repreſſing of the inward Enemies there-'to amongſt our ſelves, linked with them in the ſaid Anti-chriſtian 'League and Confederacy; Have therefore in the preſence of Almigh-'ty God, and with his Majeſty's authorizing and allowance, faithfully 'promiſed, and ſolemnly ſworn, like as hereby we faithfully and ſo-'lemnly ſwear, and promiſe, to take a true effauld, and plain part, 'with his Majeſty amongſt our ſelves, for diverting of the appearing 'danger threatned to the ſaid Religion, and his Majeſty's State and 'Standing, depending thereupon, by whatſoever Forraign or Inteſ-'tine Plots or Preparations. And to that effect, faithfully, and that 'upon our Truth and Honour, bind and oblige us to others, to con-'vene and aſſemble our ſelves publickly, with our Friends in Arms, 'or in quiet manner, at ſuch times and places as we ſhall be required 'by his Maties Proclamation, or by Writ, or Meſſage directed to Us from 'his Majeſty, or any having Power from, and being convened and aſ-'ſembled, to join and concur with the whole Forces of our Friends 'and Followers, againſt whatſoever Foreign or Inteſtine Powers, or '*Papiſts* and their Partakers, ſhall arrive or riſe within this Iſland, or 'any part thereof, ready to defend or purſue, as We ſhall be authorized 'or conducted by his Majeſty, or any others having his Power and 'Commiſſion, to join and hold hand to the execution of whatſoever 'Mean or Order ſhall be thought meet by his Majeſty and his Coun-'cil, for ſuppreſſing the *Papiſts*, promotion of the true Religion, and

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'ſetling of his Highneſs Eſtate, and Obedience in all the Countries and 'Corners of this Realm, to expoſe and hazard our Lives, Lands and 'Goods, and whatſoever Means God hath lent Us, in the defence of 'the ſaid True and Chriſtian Religion, and his Majeſty's Perſon and 'Eſtate, againſt whatſoever Jeſuits and Seminary or Maſs-Prieſts, con-'demned Enemies to God and his Majeſty, to their utter Wreck and 'Extermination, according to the Power granted unto Us by his Ma-'jeſty's Proclamation and Acts of Parliament, To try, ſearch, and ſeek 'out all Excommunicates, Practiſers, and other Papiſts whatſoever, 'within our Bounds and Shire where we keep reſidence, and dilate 'them to his Highneſs and his Privy-Council, and conform us to ſuch 'Directions as from time to time We ſhall receive from his Majeſty and 'his Council in their behalfs. And eſpecially ſo many of Us as pre-'ſently are, or hereafter ſhall be appointed Commiſſioners in every 'Shire, ſhall follow, purſue, and travel by all means poſſible, to take 'and apprehend all ſuch Papiſts, Apoſtates and Excommunicates, as 'We ſhall receive in Writ from his Majeſty. And We the Remanent 'within that Shire, ſhall concur and aſſiſt with the ſaid Commiſſioners, 'with our whole Friends and Forces to that effect, without reſpect of 'any perſon whatſoever, and generally to aſſiſt in the mean time, and 'defend every one of us another, in all and whatſoever Quarrels, Ac-'tions, Debates moved, or to be moved againſt us, or any of us upon 'Action of the preſent Band, or other Cauſes depending thereupon; 'and effauldly join in defence and purſuit againſt whatſoever ſhall of-'fer or intend any injury or revenge againſt them, or any one of them, 'for the premiſſes, making his cauſe and part that is purſued, all our 'parts; notwithſtanding whatſoever privy grudg or diſpleaſure ſtand-'ing betwixt any of us, which ſhall be no impediment or hindrance to 'our ſaid Effauld joyning in the ſaid Common Cauſe; but to lie over, 'and be misknown, till they be orderly removed and taken away by 'the Order under-ſpecified. To the which time, We for the better 'furtherance of the ſaid Cauſe and Service, have aſſured, and by the 'tenor hereof, every one of us taking the burden upon us for our 'ſelves, and all that We may let, aſſure each other to be unhurt, un-'harmed, or any ways to be invaded by us, or any our foreſaids for old 'Feid or new, otherwiſe than by ordinary courſe of Law and Juſtice: 'Neither ſhall We, nor any of our foreſaids, make any Provocation 'or Tumult, Trouble, or Diſpleaſure to others in any ſort, as We 'ſhall anſwer to God, and upon our Honours and Fidelity to his Ma-'jeſty.

'And for our further and more hearty Union in this Service, We are 'content and conſent, That all whatſoever our Feids and Variances 'fallen, or that may fall out, betwixt us, be within fourty days after 'the date hereof amicably referred and ſubmitted to ſeven or five in-'different Friends, choſen by his Majeſty, of our whole number, and 'by their Moderation and Arbitrement compounded and taken away. 'And finally, that We ſhall neither directly nor indirectly ſeparate nor 'withdraw us from the Union and Fellowſhip of the Remanent by 'whatſoever ſuggeſtion or private advice, or by whatſoever incident 'regard or ſtay ſuch reſolution as by common deliberation ſhall be ta-'ken in the Premiſſes, as We ſhall anſwer to God upon our Conſcien-'ces, and to the World upon our Truth and Honour, under the pain 'to be eſteemed Traitors to God and His Majeſty, and to have loſt all

Honour,

An. 1638. 'Honour, Credit, and Eſtimation, in time coming. In Witneſs where-
'of, by his Majeſty's ſpecial Command, Allowance, and Protection
'promiſed to us therein, We have ſubſcribed theſe Preſents with our
'Hands at 1589.

The King's Commiſſioner, the day after the time prefixed for his return to *Scotland*, *viz.* on the 23 day of *September*, 1638. aſſembled the Council at the Palace at *Hally-Rood-Houſe*; and firſt delivered there to them this enſuing Letter from his Majeſty, dated *Septemb.* 9.

The King's Letter to be regiſtred. *Septemb.* 22.

The which day *James* Marqueſs *Hamilton*, his Majeſty's Commiſſioner, produced and exhibited before the Lords of the Privy-Council, the two Miſſives under-written, ſigned by the King's Majeſty, and directed to the ſaid Lords; which being read, heard, and conſidered by the ſaid Lords, they have ordained, and ordains the ſame to be inſerted and regiſtred in the Books of Secret Council, therein to remain, in futuram rei memoriam, whereof the Tenour followeth.

The KING's Letter.

CHARLES *R.*

Sept. 9. 1638. RIght Truſty, &c: Being certainly informed, that the Diſtractions which have happened of late (both in Church and Common-Wealth) in this our Ancient Kingdom of Scotland, have much troubled the Minds of many of our Good and Loial Subjects; and that theſe Diſtractions have bin occaſioned upon Jealouſies and Fears of Innovation of Religion and Laws, as tending to the Introduction of Popery; and not without ſome ſuſpicion, as if We our Selves were inclined that way. Upon occaſion whereof, many of our Subjects have of late ſubſcribed a Band or Covenant for preſerving the true Religion and Laws already eſtabliſhed, and for defending the King's Perſon, and each others in defence thereof. But the ſame not being warranted by Roial Authority, as that which was in our dear Father's Time, muſt needs of it ſelf, be ineffectual and much prejudicial to the Ancient Form and Cuſtom of Government kept within that our Kingdom of Scotland: Wherefore We, out of our inborn love to our Native Country, and for obviating theſe conceived Fears, and ſatisfying of you, and all our Loving People, have thought good to ordain the Confeſſion of Faith, and Band thereunto ſubjoined, of the Date at Edinburgh, Jan. 28. 1580. and ſigned by our Roial Father, to be renewed; and to that effect have given order to our Commiſſioner, with advice of our Council, to ſet down and ſettle ſome ſolid courſe, whereby the ſame may be ſubſcribed by our Council, Judges, Magiſtrates of Burroughs, and all our other People of that Kingdom. And for further clearing of our Self, We declare, That as We are, and ever have bin ſatisfied in our Judgment and Conſcience, for the Reformed Religion now eſtabliſhed, and againſt the Roman, So We purpoſe by God's Grace both to live and die in the practice of it, and to preſerve and maintain the ſame in full ſtrength and integrity, according to the Laws of that our Ancient Kingdom. What We have

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have thought further fitting to be done at this time concerning the Particulars contained in our Subjects Petitions, you shall receive our full Pleasure therein from our Commissioner; and that this our Declaration, containing our Self, and our pious Intention for setling the Reformed Religion within that our Kingdom, may appear to Posterity, Our pleasure is, That these Presents be registred in the Books of Council.

Oatlands, Sept. 9. 1638.

After this the Marquess, and the Lords of Secret Council, do swear and subscribe the *Confession of Faith*, in manner following, dated *Sept.* 9.

WE James Marquess of Hamilton, Earl of Arran and Cambridg, Lord Evon and Evondail, his Majesty's High Commissioner; and Lords of his Majesty's Privy-Council under-subscribing, by virtue, and conform to a Warrant and Command signed by his Sacred Majesty, of the date of 9 Sept. 1638. and registred in the Books of Council, upon the 22 day of Sept. the said month, swear, and with our hearts, and humble Affections to God, Truth, and to his Sacred Majesty, subscribe the Confession of Faith, of and according to the Date and Tenour above-specified; and also renew, swear, and subscribe the aforesaid General Band of the Tenour above-written, for preservation of True Religion, and maintenance of his Sacred Majesty's Authority, according to the Tenour thereof, and siclike, as ample as the same was conceived in favours of his Majesty's unwhile blessed Father of eternal Memory, by the said Band. In Witness whereof, We have subscribed these Presents with our Hands, at Hally-Rood-House,

Septemb. 22. 1638. Sic subscribitur.

HAMILTON,

Traquair, Roxborough, Marsheal, Marre, Murray, Linlithgow, Perth, Wigton, Kinghorne, Tullibardin, Haddingtoun, Annandail, Lauderdail, Kinnowl, Dumfrees, Southesk, Belheaven, Angus, Lorn, Elphinstoun, Napier, Dalyell, Amont, John Hay, Sir Tho. Hope, Sir Will. Elphingston, Ja. Carmichael, J. Hamilton, Blackhall.

Likewise the Marquess on the 22 of *Septemb.* did publish his Majesty's Pleasure, That a Free and General Assembly be indicted, kept, and holden at *Glasgow*, the 21 of *November* next.

INasmuch as it hath pleased the King's Majesty, out of his pious and religious Disposition to the True Religion, and out of his Fatherly Care for removing of all Doubts, Fears, and Scruples, which may arise in the Minds of his Subjects, for preservation of the purity thereof; and upon divers great and weighty considerations, importing the Glory of God, the Peace of the Kirk and Common-Wealth of this Kingdom, to appoint and give order, That a Free General Assembly be indicted, kept, and holden at the City of Glasgow the 21 of November next. Therefore the Lords of the Privy-

An. 1638. Council, ordains Letters to be directed, charging Macers, and Officers of Arms, to pass and make publication hereof, by open Proclamation at the Market-Cross of Edinburgh, and the head Burroughs of this Kingdom, and other places needful; and to warn all and sundry Arch-Bishops, Bishops, Commissioners of Kirks, & others having Place and Vote in the Assembly, to repair and address to the said City of Glasgow, the said one and twentieth day of November next to come, and to attend the said Assembly during the time thereof, and aye and while the same be dissolved. And to do and perform all which to their Charges in such Cases appertaineth, as they will answer the contrary at their highest peril.

Immediately after this, Proclamation was made for the Indiction of a Parliament to meet at *Edinburgh* the 15th of *May*.

Forasmuch as it hath pleased the King, out of his pious and religious Disposition to the True Religion, and out of his Fatherly Care for removing all Doubts, Scruples, and Fears, which may arise in the Minds of his Subjects, for preservation of the Purity thereof, and upon divers other great and weighty Causes, importing the Glory of God, the Peace of the Kirk, and Common-Wealth of this Kingdom, to appoint and give over, That the Soveraign and High Court of Parliament, shall be holden at the City of Edinburgh upon the fifteenth day of May next to come, with continuation of days. Therefore the Lords of Secret Council ordain Letters to be directed to Macers and Officers of Arms, charging them to pass to the Market-Cross of Edinburgh, and other places needful, and there by open Proclamation to make publication of the holding of the said Parliament; and to warn all and sundry Noblemen, Prelates, and Commissioners for the Barons, and Burroughs, and all others having Voice and Place in the said Parliament, that they and every one of them, in their most decent and comely manner, make their Address to the said Parliament, await and attend thereat during the time thereof, and to discharge that Duty which is incumbent to them, and each one of them, as they will answer on the contrary at their highest peril.

And last of all was published and proclaimed, the Act of the Lords of the Council, requiring all the King's Subjects to subscribe the *Confession of Faith*, and *Band* annexed, as followeth.

September 24. 1638.

A Warrant signed by the King the *9th* of *September*, ordaining the swearing of the *Confession*.

The which day a Noble Earl, James Marquess of Hamilton, Earl of Arran and Cambridg, his Majesty's Commissioner, having produced and exhibited before the Lords of the Secret Council, upon the twenty second day of this instant, a Warrant signed by his Majesty, of the date of the ninth of September instant; wherein among other of his Majesty's Gracious and Royal Expressions for preservation of the purity of Religion, and due obedience to his Majesty's Authority in the maintenance thereof, his Majesty did Will and Ordain, that the Lords themselves should swear the Confession and General Band mentioned in his Majesty's said Warrant; and also

alſo ſhould take ſuch order, as all his Majeſty's Lieges may ſubſcribe the ſame. And the ſaid Lords of the Secret Council acknowledging his Majeſty's pious and gracious Diſpoſition and Affection to the purity of God's Truth, did, upon the two and twentieth of September inſtant, unanimouſly, with all humble, hearty, and ſincere Affection, ſwear and ſubſcribe the Confeſſion of Faith, dated the ſecond of March 1580, according as it was then profeſſed within this Kingdom; together with the foreſaid General Band, dated in Anno 1589. And now to that effect, that all his Majeſty's Lieges may give the like Obedience to his Majeſty's ſo pious a deſire; therefore the ſaid Lords have ordained, and ordains, that all his Majeſties Lieges, of whatſoever Eſtate, Degree, or Quality, Eccleſiaſtical or Civil, do ſwear and ſubſcribe the ſaid Confeſſion, dated the ſecond of March, 1580. And that according to the ſaid Date and Tenour thereof, and as it was then profeſt within this Kingdom, together with the ſaid General Band, dated in Anno 1589, as they will anſwer the contrary upon their Obedience; and ordains Officers at Arms to paſs to the Market-Croſs at Edinburgh, to make publication hereof, and at all other Places needful, wherethrough none can pretend ignorance of the ſame. 14 *Caroli.*

An Act of the Secret Council, approving the King's diſcharge of the Service-Book, *&c.*

The Lords of Secret Council having read, and maturely conſidered his Majeſty's Letters, and particular Declaration of his Pleaſure anent the anulling of the Service-Book, Book of Canons, and High-Commiſſion, diſcharging the preſſing of the practice of the five Articles; making all Perſons, Eccleſiaſtick or Civil, of what Title or Degree ſoever, liable to the Trial and Cenſure of Parliament, General Aſſembly, and other Judicatories competent, anent the not adminiſtring to Miniſters at their Entry any other Oath, than that which is contained in the Act of Parliament, anent the ſubſcribing and renewing the Confeſſion of Faith, ſubſcribed by his Majeſty's Father, of bleſſed Memory, and his Houſhold, in Anno 1580, and Band following thereupon, anent the indiction of a General Aſſembly to be holden at Glaſgow the 21 of November, 1638, and Parliament at Edinburgh the fifteenth day of May 1639, and anent his gracious Goodneſs in forgetting and forgiving all by-gons, and an indiction of a Faſt, for craving God's bleſſing to this Aſſembly; find themſelves ſo fully ſatisfied therewith, and the ſame to be ſatisfactory for removing all the Fears of the Subjects anent Innovation of Religion or Laws, that We hold our ſelves bound in Duty, not only to acquieſce therewith, as the beſt mean to ſecure both Religion and Laws, but alſo to uſe our beſt endeavours, that all his Majeſty's Good Subjects may likewiſe reſt ſatisfied therewith; and that they with Us, and We with them, may teſtify our thankfulneſs for ſo great a Grace and Goodneſs, with all the hearty expreſſions of Dutifulneſs and Loialty. And that our true ſenſe hereof may the more clearly appear to our Sacred Soveraign, We do by theſe humbly and heartily make offer of our Lives and Fortunes in defending and aſſiſting of his Majeſty's Sacred Perſon and Authority, in the main- *Sept.* 22. 1638.

An. 1638. tenance of the foresaid Religion and Confession, and repressing all such as shall hereafter press to disturb the Peace of this Kirk and Kingdom.

In Witness whereof, We have heartily and freely subscribed these Presents with our Hands at Hally-Rood-House, the 22 day of September, 1638, by the Persons ut supra.

The Letter of the Secret Council, giving thanks to the King for his discharge of the *Service-Book*, &c.

Most Sacred Soveraign,

IF ever Faithful and Loyal Subjects had reason to acknowledg Extraordinary Favours shown to a Nation, and in a most submissive and hearty manner, give real demonstration of the Grace vouchsafed, then do We of your Majesty's Council of this your ancient Kingdom unanimously professe, That such Acts of Clemency vouchsafed Us, cannot proceed from any Prince, saving him who is the lively Image on Earth of the Great God, Author of all Goodness, for return of so transcendent Grace, fortified with the real Expressions of unparallel'd Piety, Roial inclination to Peace and universal Love; not only to those of Our number, but likewise to all your Majesty's Loial Subjects, We do all in one Voice, with all resentment can be imagined, in all humility, render our most bounden Thanks, and offer in Testimony of our full satisfaction and acquiescence herewith, to sacrifice our Lives and Fortunes in seconding your Sacred Majesty's Commandments, and repressing all such as shall hereafter press to disturb the Peace of the Kirk and Kingdom. And for some small signification of our alacrity and diligence in your Sacred Majesty's Service, We have all, without the least shadow of any scruple, subscribed the Confession of Faith, *and* Band, *appointed to be received by all your Majesty's Loial Subjects, since the Act passed in Council, with our other Proceedings, which We do most humbly present to your Roial view; and We beseech your Majesty to be pleased, to be persuaded of the inviolable devotion of all her Subscribers, who do all in humility pray for your Majesty's happy and most flourishing Raign, by the Persons* ut supra.

The Letter of the Provost, Bailiffs, and the Council of *Glasgow*, giving thanks to his Majesty for the discharge of the *Service-Book*, &c.

Most Honourable, and our very good Lord,

HAving received a Letter directed from your Grace to Us, with this Bearer your Grace's Cousin; and having read the same, and heard and weighed his Majesty's Gracious Proclamation, which was this day proclaimed within this City, to the great joy of all the Hearers, We cannot but praise God, who hath endued his Sacred Majesty, our dread Soveraign, with such Wisdom, Piety, Clemency, and Fatherly Care of this Church and Kingdom, and pray God for a long and happy Raign to his Sacred Majesty, and his highest Posterity over Us and succeeding Generations, and shall ever endeavour to approve our selves his Majesty's most

Loial

14 Caroli.

Loial Subjects, and wiſh from our Hearts, all Happineſs to your Grace, and Graces moſt Noble Family, for the well-wiſhing to this City, and eſpecially for the great pains taken by your Grace in ſo weighty Imploiment, hoping and praying to God, that the ſame may obtain the wiſhed for accompliſhment, and ſhall ever remain,

Glaſgow, *this 24th of* Septemb. 1638.

Your Graces moſt Humble and Obedient Servants,

James Stewart, *Provoſt.*
John Anderſon, *Bailiff.*
Colme Campbell, *Bailiff.*
Ninian Anderſon, *Bailiff.*
Gabriel Cunningham.
William Stewart.
Mat. Hamiltoun.
Colme Campbell.
John Barnes.
Richard Allane.
Walter Stirling.
Gavine Neſbitt.
John Anderſon.
Robert Homer.
Patrick Bell.

The Letter of the Miniſters to the ſame effect.

Moſt Honourable, and Our very Good Lord,

Septemb. 24.

HAving received the Letter directed from your Grace, and having heard and conſidered his Majeſty's moſt Gracious Proclamation, publiſhed this day in this City, with joiful Acclamations univerſally of the Hearers, as We of the Miniſtry and Univerſity of Glaſgow, *who were preſent, with great contentment and joy of Heart applauded thereto; and do praiſe God, who hath inſpired our Dread Soveraign with ſuch Wiſdom, Piety, Clemency, and Fatherly Care of this Church and Common-Wealth of this Kingdom, as is abundantly manifeſted in the ſaid Proclamation; ſo We would gladly teſtify, by what means We can, our thankfulneſs to his Majeſty, our Crown of Rejoicing, and the Breath of our Noſtrils: Not omitting our bounden Duty to your Grace, whom God and his Majeſty hath appointed ſo fit and happy Inſtrument in this great Errand, for your ſingular Prudence, rare Piety and Zeal to God, your Prince, and Country, and incredible pains in this honourable and weighty Imploiment; which We pray God may ſtill proſper in your hands, until it be brought to a full and bleſſed concluſion, being willing for our part, to contribute what lieth in our poor power, by our earneſt Prayers, and beſt Endeavours.*

Your Graces moſt Humble and Obedient Servants,

Glaſgow, Sept. 24. 1638.

Mr. Blair.
Jo. Strang.
John Maxwell.
Will. Wilkie.
Pa. Maxwell.
John ——
Mr. Ro. Wilkie.
Mr. Maxwell.
Mr. Bell, *younger.*
Mr. Ja. Forſythe.

The

An. 1638.

The Marquess promotes the Proclamation and Confession of Faith.

The Marquess of Hamilton writ to all the King's Friends throughout *Scotland*, to see his Majesty's Proclamation published, and to get in as many Subscriptions to the Confession of Faith as was possible, and to have an eye to the Election of Commissioners to the *Assembly*, that they be well considered of in order to this Service. The Marquess did cherish Marquess *Huntly*, and the Doctors of *Aberdeen*, who were well-affected to his Majesty; and the said Doctors the only persons then in *Scotland* fit to undertake the defence of *Episcopacy*.

The Covenanters stilop pose the Confession of Faith.

Many did at first offer to signe the Confession, which the Covenanters perceiving, they endeavoured to perswade the People that all this was done only to avoid the present Storm, which would be no sooner calm'd, but they might expect worse usage then ever, and with this they added a great many Reasons to perswade all that it was *Perjury for such as had taken the Covenant, to Sign the King's Confession.*

The Marquess consults the Nullities of the Assembly.

The Marquess seeing how things were carried about Elections, begun to draw up the *Nullities of the Assembly*, sending the particulars to the King as he had them, advising his Majesty withal to go on more frankly with his Preparations, since he saw it impossible to prevent a Rupture at *Glasgow*.

At this time the King's Declaration for subscribing the Confession of Faith was published throughout all the Shires in *Scotland*, in some it met with Protestations from the *Tables*.

And upon *October 5th* the Bishops and Doctors of *Aberdeen* signed the Confession of Faith with these Restrictions following.

'First, We do heartily abhor and condemn all Errors truly *Popish*, 'or Repugnant to the holy Scripture, and consequently to the Uni-'form Doctrine of the Reformed Kirks, and to our National Confessi-'on, Registred in Parliament, *An.* 1567.

'2. We do no ways hereby abjure or condemn Episcopal Govern-'ment, as it was in the days, and after the days of the Apostles in 'the Christian Kirk for many hundred of years, and is now conform 'thereto restored in the Kirk of *Scotland*.

'3. We do not hereby condemn nor abjure the five Articles of 'Perth, or any thing lawful of that sort which shall be found by the 'Church conduceable at any time for good Policy and Order, or which 'is practised by any sound reformed Kirk.

'4. We still hold to that Clause of our great National Confession '(Chap. 20. Art 21.) that the General Councils, and consequently the 'National Kirk of *Scotland*, have no Power to make any perpetual 'Law, which God before hath not made.

'5. By the adhering to the Discipline of the Reformed Kirk of '*Scotland*, we mean not any immutability of that Presbyterial Go-'vernment which was *An.* 1581, or of any humane Institution: but 'we do hereby understand that the Ecclesiastical Jurisdiction and Disci-'pline of the Kirk of *Scotland* doth not depend on the Pope of *Rome*, 'or any other Forraign Power; and hereby we do confess our con-'stant Obedience to the Kirk of *Scotland* in all her lawful Constituti-'ons.

'6. We do not presume by this our Personal Oath, either to pre-'judge the liberty of the Kirk of *Scotland*, to change and reform this 'foresaid short Confession in some Ambiguities and obscure expressi-'ons thereof, whereupon some Men have builded inconvenient In-'terpretations and Doctrines, or to exime our selves from Obedience 'to the Kirk in that case.

7. By

14 *Caroli.*

'7. By this our perſonal Oath we do not take upon us to lay any 'further Bond upon our Poſterity, than the Word of God doth, re- 'commending only our Example to them ſo far as they ſhall find it 'agreeable to God's Word.

'In this ſence as is ſaid, and no otherwiſe do we ſubſcribe the ſaid 'Confeſſion and the *General Bond* annexed thereunto at *Aberdene*, 'October 5th, 1638.

Signed,

Ad. Aberdonen.	*Ja. Sibbald*, D. D.
John Forbes, D. & P. of Div.	*Al. Scrogie*, D. D.
Al. Roſs, D. D.	*Will. Leſſey*, D. D.

The Marqueſs was preſſed by the Biſhops to prorogue the *Aſſembly*, with which he acquainted the King, who writ to the Marqueſs, 'That he ſhould receive a particular Anſwer by my Lord of *Canter-* 'bury of all his Propoſitions touching the Aſſembly. As for the opini- 'ons of the Clergy to prorogue this *Aſſembly*, his Majeſty utterly diſlik- 'ed them, for that it would more hurt his Reputation by not keeping 'it, than their mad Acts could prejudice his Service; wherefore he com- 'manded the Marqueſs to hold the Day: But (as the Marqueſs writ) 'if he can break them by proving Nullities in their Proceedings, no- 'thing better. Laſtly, concerning *Aſſeſſors*, his Majeſty likes their 'Names, and (as the Marqueſs writ) *he muſt not ſuffer his Majeſty to* 'loſe his *Privilege*.

The King againſt proroguing the Aſſembly.

In the end of *October* the Earl of *Rothes*, with the other Covenanters, petitioned for a *Warrant* to cite the *Biſhops* to appear before the *Aſſembly*. The Marqueſs anſwered, *the Law was open* for citing all ſuch as were either within or without the Country; but for him to give Warrants for that Procedure, was without Precedent, and ſo could not be granted; for it was enough that he did not protect them againſt Trial. Whereupon the *Covenanters* addreſſed themſelves to the Preſbytery of *Edinburgh*, who gave Warrant accordingly for a Summons: but thoſe whoſe Judgments were for Epiſcopacy, ſaid it was a moſt *ſcandalous Summons*, that ever was heard of in a Chriſtian Church, all the Biſhops being cited as guilty of *Hereſy*, *Simony*, *Perjury*, *Inceſt*, *Adultery*, *Fornication*, breach of *Sabbath*, *&c.* and they ordered this to be read in the *College* Church of *Edinburgh* after Communion, and ordered to be read in all Churches in *Scotland*, which was accordingly done. They alſo ſent Orders through all *Scotland* to ſearch into the Biſhops Converſations, that all their Eſcapes and Faults being gathered together, and Witneſſes cited to *Glaſgow*, they might find pretence of Juſtice againſt the Biſhops.

The Covenanters move the Marqueſs for a Warrant to cite the *Biſhops* to appear; but he leaves them to the Law.

Upon the firſt of *November*, the *Seſſion* or *Term* ſat down at *Edinburgh*; and the Marqueſs having dealt with all the Lords of the Court before-hand, went thither to get them ſign the *Confeſſion of Faith*, and at length nine of fifteen ſigned it; two were abſent, and four refuſed, but thoſe who ſigned it, durſt hardly walk the Streets.

The Seſſion ſat down at *Edinburgh*.

Moſt of the Judges ſign the Confeſſion.

The

An. 1638. The Marqueſs having received his Inſtructions as to his deportment at the Aſſembly appointed to meet at *Glaſgow*; and the King having peruſed the Speech the Marqueſs was then to make, he began his Journey towards *Glaſgow* on the *16th* of *November*, and required the King's Advocate to prepare himſelf there to defend Epiſcopacy to be according to the Laws of *Scotland*; but his Anſwer was, That *it went againſt his Conſcience ſo to do, and that he judged Epiſcopacy both contrary to the Word of God, and to the Laws of this Church and Kingdom*; So he prevailed with the Advocate not to go to *Glaſgow*.

On the *17th* of *November* the Marqueſs arrived at *Glaſgow* in a quiet and peaceable manner, none of the Train carrying with him any prohibited Arms; there met him a Letter from the Biſhops of *Roſs* and *Brechin*, informing him that they had given Dr. *Hamilton* Directions and Deputations to act on their behalf, and that his Name is inſerted in the Procuratory, which is in the cloſe of the Declinator; and deſires the Marqueſs, That the Proteſtation that they have prepared and ſent, may be ſecretly kept, and ſeaſonably preſented, before either the Cauſe, or they that are Biſhops ſuffer wrong. There met him all the Privy-Council, except the Biſhops, according to a Letter which the King had writ to them, to aſſiſt him at the time of his being there, with their beſt Concurrence and Counſel.

We deſire here leave to break off as to *Scotiſh* Affairs, becauſe the Account which we give of the Proceedings of that Aſſembly, and the ſubſequent Paſſages afterwards, are of ſome length: and therefore to divert the Reader, we will return to Affairs in *England*; and firſt to mention the Trial of *Claxton* and *Lilburn*, which was omitted in our *Collections* in *Auguſt* laſt.

Ralph Claxton, Demandant,
Richard Lilburn, Tenant, } Before Judg *Barkley*.

Durham ſſ. Auguſt *6*. THE *Demandant*, the firſt day of the Seſſion or Court of *Pleas*, the *6th* of *Auguſt*, did appear about ten of the Clock in the Forenoon, by *Richard Matthew* his Attorney, and brought in his Champion *George Cheney* in Array, who caſt his Gantlet into the Court with five ſmall Pence in it.

The *Tenant* likewiſe appeared by *William Sedgwick* his Attorney, and brought in his Champion *William Peverell* in Array, who caſt his Gantlet into the Court with five ſmall Pence in it.

After ſome examination of the Proceedings in the Cauſe, the Parties and their Champions were adjourned till three of the Clock in the Afternoon of the ſame day.

At that hour the *Demandant* was called, and appeared by his Attorny with his Champion. So did the *Tenant* and his *Champion*.

Then after Diſcourſe had of it by the Judg, and ſome examination of the Champions, the Judg did adjourn them over till eight of the Clock on *Tueſday* the *7th* Inſtant. At which time the Parties and their Champions appeared as before, and were adjourned till three of the Clock after Dinner.

At

14 *Caroli.*

At which hour the Parties and their Champions appeared, and were adjourned over till *Wednesday* at eight of the Morning.

At which day and hour the Parties and their Champions appeared as before, and put in their Pledges (as at the Court holden the *7th* of *July*) to appear at the next Court of *Pleas* to be holden the 15*th* of *September* next.

Memorandum; That the Champions were committed to the custody of two Bailiffs, by direction of the Judg, and continued in their hands until eight of the Clock on *Wednesday* the *8th* of *Auguſt*, when they put in their Pledges to appear at the next Court.

The 15*th* of *Auguſt* 1638, I received this Copy from Mr. *John Stephen.*

John Morland.

Concerning Claxton *and* Lilburn *their Trial by Battel.*

HIS Majeſty this day ſitting in Council, was made acquainted, That there had bin ſeveral days appointed for determining by Battel the *Queſtion of Right*, which had long depended between *Claxton* Demandant, and *Lilburn* Tenant, for certain Lands in the *County Palatine* of *Durham*. And that by the late Appointment, the ſame was to be tried by the ſaid Parties Champions the 22 *Decemb.* next. It was by his Majeſty ordered, That the Judges of that Circuit, upon conference with their Brethren, ſhould be thereby prayed and required to take the ſame Caſe into due and ſerious conſideration; and if they could find any juſt way by Law how the ſaid Combat might be put off, and the Cauſe put into another way of Trial; for his Majeſty, out of his pious care of his Subjects, would have it ſo, rather than to admit of a Battel. But otherwiſe, ſince *Lilburn* had a Judgment upon a Demurrer again *Claxton*, and alſo Coſts from the Board for his Vexation, and ſince that *Claxton* had brought a new Action, upon which *Lilburn* had waged Battel, his Majeſty would not deny the Trial of Laws, if it could not be legally prevented.

Afterwards both Parties brought their Champions into the Court of *Durham*, having *Sand-bags* and *Battoons*, and ſo tendred themſelves in that fighting poſture: But the Court upon the reading the Record, found an Error in it, committed by a miſtake of the Clerk, (ſome thought wilfully done) whereupon the Court would not let them join Battel at that time.

Thus did the Court ſeveral times order to avoid Battel by deferring the Matter, though Champions on both ſides were ever preſent in Court at all Meetings to join Battel.

This proved an *Omen* to what the next Year produced, by a greater appearance of a Battel, when the King's Army was at the Camp at *Berwick*, and the *Scots* on the other ſide of *Tweed*, yet both Armies parted alſo without Battel.

This *Richard Lilburn* Tenant in this Cauſe, was Father to *John Lilburn*, who was Cenſured in *Star-Chamber.*

Here followeth the Opinion of the Judges in this Cauſe of Trial by a Battel, upon a *Writ of Right.*

An. 1638.

Claxton *verſus* Lilburn.

A Writ of Right in Durham.

Judges Opinions as to the Trial by Battel between *Claxton* and *Lilburn*.

'THe *Tenant* waged Battel, which was accepted; and at the day 'to be performed, *Berkley* Juſtice there, examined the Champi-'ons of both Parties, whether they were not hired for Mony? And 'they confeſſed they were: Which Confeſſion he cauſed to be record-'ed, and gave further day to be adviſed. And by the King's directi-'on, all the Juſtices were required to deliver their Opinions, whether 'this was cauſe to de-arraign the Battel by theſe Champions? And by '*Bramſtone* Chief Juſtice, *Davenport* Chief Baron, *Denham*, *Hutton*, '*Jones*, *Cook*, and other Juſtices, it was ſubſcribed, *That this Excep-'tion coming after the Battel gaged, and Champions allowed, and Sureties 'given to perform it, ought not to be received.*

Directions to the Lord Lieutenants concerning the Trained Bands.

'THe uſual Directions of the Board heretofore given, and eſpeci-'ally of late Years, concerning the Trained Bands of this King-'dom, have bin ſo full and exact, as might make his Majeſty and the 'Board confident, both of the ſufficiency of your Arms, and of the 'skill and readineſs of the Men that are to uſe them. Nevertheleſs, 'leſt the aforeſaid Directions and Commands ſhould not have bin ſo 'effectually purſued as was required and expected, his Majeſty in the 'watchfulneſs of the defence of his Kingdom, and for the ſafety of 'his People in theſe times of Action, hath ſignified his expreſs Will 'and Pleaſure to be, That inſtantly, upon receipt hereof, you cauſe 'an exact View and Muſter to be taken and made of all the Arms and 'Trained Forces, both Horſe and Foot, within the County of 'under your Lieutenancy; and to ſee that the ſaid Arms be ſervice-'able and compleat; And that by the Muſter-maſters, and other fit 'and experienced Officers, you cauſe all the Trained Souldiers of the 'aforeſaid County, to be forthwith trained, and perfectly inſtructed 'in their Arms, and the like courſe to be continued from time to time; 'and that the Commanders and Officers apply themſelves alſo to know 'and perform the Duties of their ſeveral Charges; And that you take 'eſpecial care that both Commanders, Officers, and Souldiers, be ve-'ry able and ſufficient Men. That you take order, that all the Trained 'Bands be ſo in readineſs, as to be fit to repair to their Colours, or 'place of Randezvous, which ſhall be aſſigned them, upon any occa-'ſion, with their Arms and Proviſions, upon a days warning. And 'that all the Able Men within that County, beſides thoſe of the 'Trained Bands, from the Age of ſixteen to threeſcore, be alſo liſted 'and inrolled, that upon any ſudden Occaſion, ſuch Levies may be 'made likewiſe of them as ſhall be required; and the Copy of the 'ſaid Liſt, or Inrolement, to be forthwith returned to the Board. 'That you deal ſeriouſly and effectually with the better ſort of Men, 'to provide themſelves with Arms for their particular uſe; to the 'end, that with the help of thoſe, and ſuch other Arms and Weapons 'as ſhall be found within the aforeſaid County, as many of the un-'trained Men as is poſſible, may (as there ſhall be occaſion and dire-'rection from his Majeſty or the Board) be alſo furniſhed and exer-

'ciſed,

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'ciſed, and reduced into Bands under Captains and Officers, That 'your Lordſhip take eſpecial care, that the proportion of Powder, 'Match and Lead appointed for that County reſpectively, be forth-'with provided and put in Magazins, to be in readineſs upon all occa-'ſions of Service. That you cauſe the Beacons to be forthwith made up 'and repaired with proviſion of Wood, and other Materials requiſit 'to be in readineſs, to give Fire unto them, and to cauſe them to be 'diligently watched by diſcreet and ſufficient Men. That you ap-'point ſome able and meet Perſon to be Provoſt Marſhal within the 'aforeſaid County, (for the apprehending and puniſhing of ſuch va-'grant and idle Perſons, as live not in any lawful Vocation, and in 'Times of Suſpicion or Trouble may by Tales and falſe Rumours *di-'ſtract the Peoples minds*; or otherwiſe in fact to commit Inſolencies 'and Outrages. And to the end that we may be duly and ſpeedily 'informed of all ſuch things concerning this Service, and which are 'neceſſary for Us to underſtand for the advancement thereof, and the 'applying of fit Remedies where any Defects ſhall be found, We do 'pray and require your Lordſhip to give us an exact Account of the 'ſtate of the Forces of the aforeſaid County, and of the performance 'of theſe our Directions with all poſſible diligence and expedition. And 'ſo we bid, *&c.*

Poſtſcript.

'Where your Lordſhip ſhall find it inconvenient, either in reſpect 'of the unſeaſonableneſs of the weather, or any other conſiderable cir-'cumſtance, to draw together from remote places, and to exerciſe 'the Trained Bands in compleat Bodies, We leave it to your diſcre-'tion, (povided that the work be ſufficiently done) to take view of 'the Arms upon the place or places, and to exerciſe the Men apart, 'and in ſmaler Bodies within their ſeveral Diviſions.

CHARLES Rex.

Jan. 26. The King's Letter, certifying his Reſolution of going in perſon into the North with an Army againſt the *Scots*, directed to moſt of the Nobility.

RIght Truſty and Right Welbeloved Couſin, We greet you well. The late Diſorders in Our Realm of Scotland, began upon pretence of Religion, but now appearing to have been raiſed by Factious ſpirits, and fomented by ſome few ill and traiterouſly affected particular Perſons, whoſe aim hath been by troubling the Peace of that our Kingdom, to work their own private ends, and indeed to ſhake off all Monarchial Government, though We have often aſſured them, that We reſolved to maintain conſtantly the Religion eſtabliſhed by the Laws of that Kingdom, is now growen to that height and dangerous conſequence, that under thoſe ſiniſter pretences, they have ſo far ſeduced many of our People there, as great and conſiderable Forces are raiſed and aſſembled in ſuch ſort, as we have reaſon to take into conſideration the Defence and Safety of this Realm of England; and therefore upon due and mature conſultation with the Lords of our Council, We have reſolved to repair in our Roial Perſon to the Northern parts of this our Realm, there (by the help of Almighty God, and the aſſiſtance of our good Subjects) to make reſiſtance againſt any Invaſion that may happen.

And to the end that this Expedition, may be as effectual as we deſign, to the Glory of God, the Honour and ſafety of Us, and of this

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our ſaid Kingdom of England, We have directed that a conſiderable Army both of Horſe and Foot, ſhould be forthwith levied out of all the Shires to attend Us in this Action, wherein we nothing doubt, but the Affection, Fidelity, and Courage of our People ſhall well appear.

In the mean time, we have thought fit, hereby to give you notice of this our Reſolution, and of the ſtate of our Affairs, and withall hereby to require You to attend Our Royal Perſon and Standard at Our City of York, by the firſt day of April next enſuing, in ſuch Equipage, and ſuch Forces of Horſe, as your Birth, Honour, and your Intereſt in the publick Safety do oblige you unto, And as we do and have reaſon to expect from you. And this our Letter ſhall be as ſufficient and as effectual a Warrant and Diſcharge unto you for the putting of your ſelf, and ſuch as ſhall attend you, into Arms, and Order as aforeſaid, as if you were authoriſed thereunto by our Great Seal of England. And we do require you to certifie Us under your hand within fifteen days next after the receit hereof, what Aſſiſtance we ſhall expect from you herein, and to direct the ſame to one of our Principal Secretaries of State. Given under our Signet at our Palace of Weſtminſter the 26th day of January in the fourteenth Year of our Raign.

Exam. P. Warwick.

At the Court at *Whitehall*, the 27th of *January*, 1638.

Preſent,

The King's moſt Excellent Majeſty.

Lord Arch-Biſhop of *Canterbury*.
Lord Keeper.
Lord Treaſurer.
Lord Privy-Seal.
Lord Duke of *Lenox*.
Lord Marqueſs *Hamilton*.
Lord High Chamberlain.
Earl Marſhal.
Lord Admiral.
Lord Chamberlain.
Earl of *Dorſet*.
Earl of *Salisbury*.
Earl of *Holland*.
Lord *Cottington*.
Lord *Newburgh*.
Mr. Treaſurer.
Mr. Comptroller.
Mr. Vice-Chamberlain.
Mr. Secretary *Cook*.
Mr. Secretary *Windebanck*.

THis day was read at the Board (His Majeſty ſitting in Council) the Draught of the Writ hereafter mentioned, and by His Majeſty's expreſs Command, it was ordered, That Mr. Attorney-General ſhould be hereby required forthwith to ſend Writs accordingly to the Lord William Howard, the Lord Clifford, the Lord Wharton, the Lord Grey of Wark, Sir Richard Lumly Knight, Vicount Waterford in Ireland. Mr. Attorney is to take care not to fail to iſſue out theſe Writs.

By

14 *Caroli.*

By which Writs they were required to repair into thoſe Parts with their Families and Retinues, ſufficiently arm'd, for the ſafety and defence thereof, under the penalty of having their Lands, Goods and Chattels in thoſe Counties ſeiſed into his Majeſty's hands, by the Revenue whereof he will maintain others for the guarding of thoſe Parts in their default. See the Writs at large in the *Appendix*.

Writs ſent to the Mayors of *Hull* and *Newcaſtle*.

In like manner Writs were ſent to the Mayors of the Towns of *Hull* and *Newcaſtle*, for the fortifying of thoſe Towns at the charge of the Inhabitants, according to the practice of former times.

Voluntiers permitted to arm themſelvs.

Many old Souldiers which imbraced the War as their Profeſſion, many Voluntiers of the Gentry tendred their Service to the King; which being repreſented to the Privy-Council, It was reſolved that all Subjects who voluntarily deſired to arm themſelves either at home, or from abroad, ſhould for Themſelves and their Aſſociates therein, have all Liberty and Encouragement; as likewiſe for their Aſſembling, Exerciſing, and Diſciplining all Voluntiers that ſhall offer their Service in this kind; and that Licence in this behalf be given them under the hand of the Earl Marſhal of *England*, which ſhall be to them a ſufficient Warrant.

Rendezvous to be at *Selby*, *April* 1.

The Privy-Council ſent forth Orders to the Lords Lieutenants of the Counties, for the levying of Foot-men, to be conducted to the Town of *Selby* upon *Owſe* near *York*, there to be delivered to the Captains and Officers ready to receive them by the firſt of *April* next, the Counties being to defray the charge of Conduct, which ſhould be repaid out of the King's Exchequer.

------Alſo a certain number out of the Trained-Bands appointed to be ſelected, exerciſed, and kept in readineſs, were called for, whereof two parts were Muskets, and a third Pikes, to be conducted, as before expreſſed, to their place of Rendezvous, where they entred into the King's Pay.

Likewiſe certain Preſt-men ordered to be ſent into *Holland*, to ſupply the rooms of ſo many old Souldiers to be brought from thence, to be made inferiour Officers.

March 23. Lords Lieutenants, &c. to remain in their Country.

All Lords-Lieutenants and Deputy-Lieutenants were ordered by the Council to remain within the Limits of their Lieutenancies.

The Earl of *Bridgwater* was commanded to go into his Preſidency in *Wales*, and to give notice to all Governours of Iſlands and Forts, to repair to their Commands; or, in caſe they were otherwiſe imployed in his Majeſty's Service, to ſend able Deputies. And all Captains and Commanders of Forts and Caſtles were required to reſide in their reſpective Charges.

The Lord Deputy of *Ireland* his Letter to the King, dated *Feb.* 10. 1638. concerning *Scotiſh Affairs*.

May it pleaſe your Sacred Majeſty,

The Lord Deputy of *Ireland's Letter* to the King.

'HAving of late in a ſhort ſpace written ſundry Letters, I choſe 'hitherto to forbear anſwering thoſe of the 28*th* of *December*, leſt 'my Liberty might ſeem a violence to the modeſty and Reverence I 'ought and ſhall ever obſerve, ſo often as I have the Honour to ap- 'pear before your Majeſty be it in Perſon or Writting.

'But now the Acknowlegements of your Princelely Aſpect to- 'ward your abſent Servant break forth from me.

'Firſt,

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'Firſt, In a moſt humble ſenſe of your gracious admitting me the 'Honour to perform unto the Queen a ſmall Service, in the Suit I 'laſt mentioned, and thereby expreſs my ambition to be commanded 'ſomething by her Majeſty.

'And next, the comfort I have to find my ſelf under the protection, 'and ſhelter of your Majeſties moſt excellent Judgment and Juſtice, 'all along that ſtorm raiſed in my Country (when I leaſt looked for 'it) by the Earl of *Holland*, and others.

'The Paſſages indeed I have underſtood from Mr. *Raylton*, for 'which I moſt humbly thank your Majeſty.

'It ſeemeth the Earl of *Holland* now ſaith, That he never refuſed 'to be examined; excepting only againſt the looſeneſs of the Inter- 'rogatories. Sure his Lordſhip hath thought better of it of late; for, 'either I have bin ſtrangely miſinformed, or at firſt his Lordſhip inſi- 'ſted poſitively, That by his Priviledg of a Peer and Counſellor, he 'ought not to be examined at all, and laboured to procure an Order 'at the Council-Board it ſelf to ſettle it accordingly.

'Then your Majeſty conceives, I ſhould have looked ſo into the 'Interrogatories, as might have rendred them without exception. I 'have bin heretofore thrice *Defendent* and twice *Plantiff* in that 'Court; and upon my Faith, Sir, never read over any Interrogatory 'in all my Life, this being the Work of the Sollicitor and Counſel, 'and not of the Client; and ſo having given Direction, nothing 'ſhould paſs of that kind, but under the Eye of your Majeſty's At- 'torney General, and Sollicitor; I held my ſelf by that means ſafer, 'and in a more perfect way, than any poor advice or skill of mine 'own could have ſet me, albeit I had bin preſent upon the place.

'As for that which your Majeſty with ſo much tenderneſs above 'any merit, or conſequences of my poor Services, mentions in the 'latter part of this gracious Letter concerning Sec. *Win.* 182. I be- 'ſeech your Majeſty believe, that I have ſo intirely aſſigned my Will 'and Affections to your Pleaſure; am ſo perfectly delighted to follow 'and ſerve you your own way, how much ſoever my private Opinion 'might elſe lead me into your Paths; that there is neither Perſon, 'nor Thing, that I ſhall not readily and chearfully join hands withal, 'where your Majeſty is pleaſed once to ſignify it is fit for your Service 'to have it ſo, how much more than with this Lady, againſt whom 'I proteſt I never had the leaſt Exception for any private intereſt of 'my own.

'And here having anſwered the former, I receive your Majeſty's 'other Letter of the 28*th* of *January*, this 5*th* of *February*.

'By the Bleſſing of Almighty God, theſe *five hundred Men*, pro- 'vided in all reſpects as becomes your Service, ſhall be at *Carliſle* by 'the firſt of *April*, according to your Majeſty's appointment, nothing 'but croſs Winds to hinder; for that favourable, I will have them all 'on Board, and moving thitherward by the 20*th* of the next month, 'provided of fifteen days Bread and Beef, for Cheeſe this Place af- 'fords none: But ſtill, under favour, me-thinks the Gariſon of *Car- 'liſle* would not be leſs than 200 Horſe and 1000 Foot, and that of '*Berwick* 400 Horſe and 2000 Foot.

'I congratulate exceedingly the forwardneſs of your Engliſh Sub- 'jects, the readineſs of your Army, and your gracious Purpoſe of 'going in Perſon to *York*, as paſſing wiſe and noble, will give infi-

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14 *Caroli.*

'nite chearfulneſs to your Army, countenance and advantage to all 'your Affairs; yet I truſt there is no thought of your going any 'further. It will be ſufficient the reſt under your Majeſty's Directions 'be managed by ſuch as have that Charge committed to them.

'The Seaſon of this Year is ſo paſt, as nothing can be done in pre-'ſent, but againſt the next Winter. If I knew the Proportions, I 'conceive I might, at good Rates, victual *Carliſle* with Beef, Butter, 'Corn, or Bisket, and Herring, to be delivered at *White-haven*, and ſo 'carried thirty miles over Land to *Carliſle*; and after I underſtand 'your Pleaſure, ſhall attend that Service, as all other your Gracious 'Commands, with my uttermoſt care and pains.

'My Lord of *Antrim* doth not by one word make known his deſire 'to me for Arms, which is adviſedly done; his Lordſhip perceiving 'I am not ignorant of his great want of Mony; his credit to be ſo 'low, as not able to take up, at this very inſtant, in this Town poor '*three hundred pounds*, therefore his great Undertakings are more like 'to be believed on abroad, then they would be nearer home. I ſhall 'be able to furniſh him with Arms, when the Supply comes We 'have ſent for into the *Low-Countries*, if it be your Pleaſure to have 'it ſo: But I crave to know who it is your Majeſty purpoſeth ſhall 'pay for them.

'Yet I might accuſe my ſelf, ſhould I not humbly certify your Ma-'jeſty, I am altogether of opinion, his Lordſhip in ſo great a ſtreight 'of his own Fortune, is not a Perſon at all to trouble the Earl of *Ar-'gile* now come back again into *Cantire*, or in preſent much conſide-'rable to your Majeſty's Affairs; and confident I am this will appear 'moſt true, how great ſoever his deſires on that ſide are expreſſed, and 'I may believe them to be to ſerve the Crown.

'The Secrets your Majeſty gives me in charge, ſhall never be diſco-'vered to any Creature; yet that I be not thought upon for other 'Mens faults, I ſend incloſed a paſſage that I my ſelf read in a Letter 'writ thence to Captain *Biron*. The Writer is one Mr. *Daniel Neal*, 'a very ſlight and buſy Perſon. His principal dependance on the 'Earl of *Antrim*; and if I be not miſtaken, very converſant at *Arun-'del*-Houſe: Nevertheleſs my hands once freed of this Packet, I ſhall 'ſo colour the Matter, as to take away all thoughts of going to '*Carliſle*.

'Mr. *Raylton* informs me, There are Summons gone out for all the 'Nobility to attend your Majeſty at *York*, Letters made ready for 'me among the reſt, which your Majeſty was pleaſed to order the 'ſtay of, for which I thus return my moſt humble Thanks.

'Were I not really and importunately fixed by my Employment, as 'a decent Complement at leaſt to the Peace and Safety of the Affairs 'on this ſide, I ſhould be moſt mightily out of countenance to be 'found in another place, than at your Majeſty's Feet, to receive and 'execute your Commands, to the utmoſt of my Power and Life.

'Yet, Sir, I am your moſt obliged Creature, why ſhould I be cared 'for, or conſidered, where your greateſt Intereſts are in queſtion? 'Hence it is, that I thought of ſending thither fifty of my Horſe-'Troop, but that they are not to be ſupplied again on this ſide, nor 'durſt I diſfurniſh your Service of them here, and to furniſh ſo many 'there, my ſelf abſent, and in ſo ſhort a time, I am out of hope: 'yet have I thought of another Expedient, which perchance may

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'prove as much for your Service, as good in the Example, which I 'humbly crave may be accepted.

'Therefore, if it ſhall not pleaſe God to put the *Scotiſh* Subjects 'into their right Wits again, that they do not humbly and repentantly 'conform to your Majeſty's Will: I ſhall give order that for this next 'Year, there be paid at *York* to Sir *William Udall*, your Treaſurer 'for the Wars, as my Rents come in, one thouſand Pounds at *Mid-'ſummer*, and one thouſand pound at *Chriſtmſs*; and if this be not 'ſufficient, I do moſt humbly beſeech your Majeſty command all I 'have there to the uttermoſt Farthing.

'Nor have I on this ſide more Friends than three, that have Lands 'there; and I am deſired, by the Maſter of the *Rolls*, and Sir *George* '*Radcliff*, that 500 *l.* betwixt them may be accepted upon the ſame 'terms, and ſome days of paiment: And in like manner a young 'Captain of your Majeſty's, my Brother, that hath ſome Fortune by 'his Wife there, 100 *l.*

'Our Sons are all Children; but if they were able to bear Arms, 'we ſhould ſend the young *Whelps* to be entred in your Majeſty's '*Militia*, Judg it to be their greateſt honour it might be ſo; and 'for a Concluſion, ſo as it might be better for your Service, hang up 'the old *Dogs*.

'Above all, I beſeech your Majeſty intend your Horſe, and make 'your ſelf as ſtrong in them as poſſibly can be effected in this ſhort 'time: For as it will be no great difficulty to your Majeſty to overtop 'your Rebels, and Maſter them in Horſe; ſo ſhall that Point gained, 'and fortified alone, ſecure your Kingdom of *England* from the pre-'judice it might otherwiſe ſuſtain, if they went forth to ſuch Inſo-'lence, as to make an Offenſive War upon the Crown.

'My next Work, I fear, will be to trouble your Majeſty with a 'Letter touching my own Particular. I beſeech you vouchſafe to read 'it; and after, rather than diſquiet your Majeſty, or your Affairs, 'burn it, and command Mr. *Raylton* to go on with the Examination, 'as it is already directed; only, Sir, there is a Credit, which among 'Men, I ought ſo far forth to care for, as it may enable me to fulfil 'your Commands with more Effect and Honour, which I truſt how-'ſoever will plead my excuſe. The Great God of Battels long and 'long preſerve your Majeſty.

Dublin, Feb. 10. 1638.

Your Majeſty's

moſt faithful, and moſt humble

Subject and Servant,

WENTWORTH.

The Arch-Biſhop of *Canterbury*'s Letter to the Clergy, to contribute freely to the War againſt the *Scots*.

After

14 *Caroli.*

Feb. 11. The A. Biſhop of *Canterbury's* Letter to the Clergy.

After my hearty Commendations, &c.

I Have received a Warrant from the Lords of his Majeſty's moſt Honourable Privy-Council, which requires me to write to all the Biſhops in my Province to call their Clergie together, and put them in mind of the great danger this Kingdom is in, by the traiterous Conſpiracies of ſome ill-affected in Scotland. *Theſe Seditious Perſons have begun, and continued hitherto their foul Diſloialty under the pretence of Religion, which by factious Spirits in all times is made the Cloak to cover and hide, (if it might be) their Deſigns. But now it appears clearly to the State, that they daily ſtrengthen themſelves by Arms and Ammunition, and other Preparations for War. And though his Majeſty hath graciouſly condeſcended to more than they could juſtly ask in all things concerning their Religion and their Laws, yet they go on ſtill, and are ſatisfied with nothing but their rebellious Diſobedience, and have no leſs aim than to invade or annoy* England. *The Letters to the ſeveral Biſhops I have ſent, as I was commanded, and I doubt not but they and the Clergie in general, will give very freely towards this great and neceſſary Defence of the Kingdom. And becauſe this great and common Danger cannot be kept off, but by a common Defence; and for that the Reverend Judges, and others of the Common Law have bountifully expreſſed themſelves already; I am required to write to you alſo, that you calling to you the reſt of the Doctors of the Commons, propoſe to them now while moſt of them are together, this great and weighty Buſineſs belonging as much to their Defence as to other Mens; and let every Man ſet down what he will give to this Service: when this is done, I will acquaint his Majeſty with it, and yours and their forwardneſs herein. And it is expected that you haſten this with all convenient ſpeed. So to God's bleſſed Protection I leave you, and reſt,*

Lambeth, *Feb.* 11. 1638.

Your very loving Friend,

W. CANT.

POSTSCRIPT.

You muſt ſend to ſuch Chancellors *and* Officials *as are not at the Commons, but at their ſeveral Reſidences; and if you give them a good example here, I doubt not but they will follow it.*

You ſhall not need to call to Sir Henry Martin, *for his Majeſty will ſend to him himſelf, and looks for a greater Sum than in an ordinary way.*

The Scots underſtanding that the Parliament was to meet in *England* the 13*th* of *April*, diſperſed among the People of *England*, eſpecially in *London*, a Pamphlet containing a Scotiſh Declaration to ſatisfie *England* of the ſincerity of their Intentions and Actions, which was publiſhed by order of the General Aſſembly of *Scotland*, Entituled,

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An Information to all good Chriſtians within the Kingdom of England, from the Noblemen, Barons, Burrows, Miniſters of the Kingdom of Scotland, *for vindicating their Intentions and Actions from the unjuſt Calumnies of their Enemies, as followeth.*

Feb. 4. 1638, but 'tis 1639 in Scotland.

'THe work of Reformation now renewed and far advanced in this 'Kingdom, hath in the whole progreſs met with all the oppoſitions which the ſubtil malice of *Rome's* Emiſſaries could plot: But God 'hitherto has diſappointed all their Intentions, and turned *Achitophel's* 'Wiſdom into folly. And now when they cannot beat down the Walls 'of *Jeruſalem*, they labour to undermine it with Calumnies, according to the damnable Maxim, *Calumniare audacter, & ſemper aliquid 'hærebit.* And, like *Tobias*, *Sanballat*, and ſuch like, will not be wanting to oppoſe mightily the Building of *Ezra* and *Nehemiah*, by ſaying 'to the King, *Why is the Rebellious City builded?*

'The ſame ſteps are now traced by the Authors of Innovations in 'this Church, who taking the advantage of their opportunity (which 'We want, to our great regret) and being greatly aſſiſted and ſtirred 'up by ſome of their own Coat, who are pernitious and Popiſhly affected, do thereupon preſume to whiſper unto his Sacred Majeſty, 'and ſpread abroad in their Neighbour Kingdom of *England* moſt untrue and damnable Aſperſions, (over and above the Particulars laid 'to our charge in the Proclamation of the 18*th* of *December*, which are 'largely anſwered in our proteſtation lately publiſhed) venting with 'equal impudency and malice, that we do only pretend Religion, but 'do intend to ſhake off the moſt lawful yoak of Authority, by changing 'the form of Civil Government; that we intended invade our neighbour Kingdom of *England*, and enrich our ſelves with the ſpoils 'thereof; although our Conſciences bear us teſtimony againſt thoſe untruths, and make us think ſo charitably, that no Man underſtanding 'rightly Religion and Policy, will give belief unto theſe Aſperſions, 'forged againſt the Body of our Church and Kingdom: yet being 'certainly informed, that the Authors of our Innovations and the archenemies of Reformation, have laboured to poiſon his Majeſties ſacred 'Ears with thoſe Imputations, and have diſperſed the ſame with open 'mouth among the Subjects of *England*. We are forced to vindicate 'our innocency, and wipe away all impreſſions which thoſe Challenges might make in the behalf of any: Firſt, by our Supplication given 'in to the Lords of Secret Council 31*ſt* of *January*, and now by our 'Anſwer, and publick Declaration unto the World, whereby we take 'God to witneſs, That Religion is the only Subject, Conſcience the motive, and Reformation the aim of our Deſigns, for attaining whereof, 'we have never ſtrayed from the humble and loyal way of petitioning 'his Majeſty for a legal Redreſs. And do yet according to our bounden Duty, beg the conſummation of our happy beginnings by the holding of the *Parliament* for the Ratification of the *Aſſembly* indicted 'by his Royal Majeſty. And as We have often heretofore profeſſed 'in our Supplications, religiouſly ſworn in our ſolemn Covenant with 'God Almighty, and publickly declared before God and Men in all 'our Proteſtations made in the view of Heaven and Earth, That We 'had never the leaſt intention to caſt off our dutiful Obedience unto 'his Majeſty's moſt lawful Authority: So We do hereby renounce the

Aug. 6. 1639, the Aſſembly met at *Edinburg.*

ſame,

Caroli 14.

'ſame, and ſolemnly declare, That our loyal Breaſts have never har-
'boured any thought againſt our gracious Sovereign his Perſon or
'Government, for whom We daily and earneſtly pray the King of
'Kings to grant a long and happy Reign over us; and when he ſhall
'be crowned with Immortality, that there never want one of his Seed
'rightly to rule us, and to ſit upon his Throne ſo long as the Sun and
'Moon endureth: For We acknowledge that he is the Lord's Vice-
'gerent ſwaying the Septer of this Land, tranſmitted to him by the
'ſucceſſion of ſo many Royal Anceſtors, as no other King in the World
'can parallel the ſame, and no other Nation compare with us in the
'glory of Antiquity, under that lawful ſubjection to one Line of Na-
'tive born Princes, which we will never deface by any unnatural and
'impious cogitations againſt the Lord's Anointed, but heartily wiſh
'that Shame and Confuſion may be printed upon the face of his
'Enemies, And that We may be happy in the occaſion to expoſe our
'Lives and Fortunes to the greateſt hazard, for maintenance of the
'Perſon and Authority of our dread Sovereign, and increaſe of his
'Honour. *Let Mercy and Truth preſerve the King.*

'As for our Intention towards *England*, We atteſt the ever-living
'God, (who is conſcious of our moſt ſecret thoughts) that We never
'had any ſuch Deſign or motion to offend, or wrong in the ſmalleſt
'meaſure any other Nation, much leſs our Neighbour Kingdom, living
'in one Iſle, under one King, with as little controverſy, and with as
'much affection, as hath been betwixt two Nations once at variance,
'but now happily reconciled and tied together by the moſt ſtrict
'Bonds, which We deſire rather to encreaſe than diminiſh by any act
'of unjuſt Hoſtility. And albeit we are confident that the improba-
'bility of this Challenge will ſtop the way of all credit to it, yet to
'confound theſe Reporters in their malice, we will ſhortly relate our
'Regrets and Fears, our Deſires and Reſolutions with that freedom
'and ſincerity, which may evidence our brotherly reſpect to the Sub-
'jects of *England*, and controul the falſe Surmiſes of our intentions
'againſt them. We regret together with our dear Chriſtian Brethren
'of our neighbour Nation, that we ſhould have ſo evident and ſen-
'ſible experiences of the dangerous Plots ſet on foot, and entertained
'by the Church-Men of the greateſt power in *England*, for introduc-
'ing Innovations in Religion, by corrupting the Doctrine, changing
'the Diſcipline, daily innovating the External Worſhip of God,
'Preaching publickly and maintaining points of *Arminianſm* and heads
'of Popery, defending and advancing Preachers and Profeſſors of
'that Judgment, and allowing Books ſtuffed with that Doctrine,
'Fining and Confining and Baniſhing all ſuch, as in Conſcience of
'their Duty to God labour to oppoſe the Doctrine, Diſcipline or
'Worſhip of the Church of *Rome*, by their incroaching and uſurping
'upon the King's Prerogative, tyrannizing over the Conſciences,
'Goods and Eſtates of Perſons of all qualities within that Kingdom:
'And not being content to keep within their own Precincts, did in-
'duce, aſſiſt, and encourage the pretended Arch-Biſhops and Biſhops
'of this Kingdom, to preſs not only a Conformity of this our Church,
'with that of *England* in matter of Ceremony, but alſo with the
'Church of *Rome* in the Points moſt ſubſtantially erroneous, as ap-
'peareth by the *Book of Common-Prayer* and *Canons*, found to be a
'maſs of Popiſh Superſtition, falſe Doctrine and Tyranny, which was

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'confeſſed to have been firſt plotted, then corrected and interlined in
'*England*, and ſent down to their Aſſociats the pretended Archbiſhops
'and Biſhops of this Kingdom, to be printed, and preſſed upon the whole
'Church here without order or conſent, as the only Form of Divine
'Worſhip and Government of the Church, to make us a leading Caſe
'to *England*. And by their Letters to Stateſmen, Noblemen and Bo-
'rows (to further the advancement thereof) perſwaded his Graci-
'ous Majeſty to declare theſe Books, which are full of Popiſh Super-
'ſtition, to be free of it, and to be fit means of Edifying this Church,
'and cauſed his Majeſty to prohibit the lawful Meetings and humble
'Supplications of his Subjects under pain of Treaſon, and to eſteem of
'his good Subjects as of Traitors and Rebels, for a diſcovering this
'wicked Plot, and complaining thereof; And for their renewing of
'their *National Covenant* with God, and their Allegiance to his Majeſty,
'did threaten them by publick Proclamation with utter extermination
'and ruin, and have by their Calumny moved his Majeſty to diſcharge
'under the pain of Treaſon, the ſitting of our free General Aſſembly,
'indicted by his Majeſty after ſo many Supplications, and to engage
'his Royal Word of a Prince, to defend all diſobeyers of the Church,
'to threaten and prepare for an inward War againſt this his moſt anci-
'ent loyal native Kingdom, to diſtruct all our Supplications, Oaths and
'Declarations ingenuouſly and humbly made, and thereby they have
'endeavoured, ſo far as in them lies, to alienate his Majeſties heart from
'his People, and eſtrange their due bound Affections from him if it were
'poſſible. And in the end for the full accompliſhment of their wick-
'edneſs (as we are informed) have made his Majeſty follow the ad-
'vice and counſel of profeſſed Papiſts, and to intruſt them with the
'chiefeſt Offices of the Armies and Arms now preparing, for the threat-
'ned Invaſion of this Kingdom: and ſtill intend to raiſe Jealouſies
'in the Body of the one Kingdom againſt the other, and ſo to com-
'mit them together, which we beſeech God to prevent, and hope it
'ſhall be above their Malice, the Lord opening the eyes of our Sove-
'raign and of our neighbour Nation, to diſcover that Treachery where-
'by nothing is intended, but to join the two Kingdoms in bloudy War,
'that ſo Reformed Religion may be extinguiſhed and Popery introdu-
'ced, which then may be eaſily effected when both ſides are weakned,
'and ſo may be eaſily ſuppreſſed by the Papiſts, having all Power and
'Offices in their hands, being already too ſtrong in *England*, and encou-
'raged with expectation of Foraign help, ready to accept that advan-
'tage, ſo much prejudicial to his Majeſties Honour, Power and mani-
'fold Declarations for the maintenance of the Reformed Religion,
'whereof he is the Defender. We have alſo Reaſon to regret, that any
'within the Kingdom ſhould give more credit to falſe Calumnies, cun-
'ningly invented to foment their jealouſies, and make them prepare
'for invading their Brethren, than to our ſolemn Proteſtations, Suppli-
'cations, Declarations and Covenant with God himſelf; yet we are ful-
'ly confident that ſuch are drawn thereunto, partly through the Infor-
'mation of our Adverſaries, and particularly for lack of clear Informati-
'on concerning our moſt Loyal and Chriſtian Proceedings: and there-
'fore do moſt heartily wiſh, they may with Wiſdom and Charity ſuſ-
'pend any further giving credit to things of that kind, till they may
'have occaſion to receive full Information of the truth. And we re-
'gret that any ſhould think the ſtanding of Epiſcopacy in the Church

of

14 *Caroli.*

'of *Scotland* juſt ground for Invading of, and making War againſt this 'Nation, and conſequently to raiſe up the Old National Bloodſhed 'and Quarrels, which are now happily changed unto a ſweet peace-'able conjunction of Hearts and Affections, ſeeing Epiſcopy in this 'Church is contrary to our Ancient Reformation, *Confeſſion of Faith,* 'and Oath of this Church and Kingdom, whereby that Government 'was abjured, which cannot reaſonably offend any other State or 'Church, who may be ruled by their own Laws and Warrant. But 'as in every Matter which falleth in deliberation to be put in Execu-'tion, Juſtice ſhould be the Mover and Efficient, and Profit and 'Honour uſed to be the End: So eſpecially in this weighty Buſineſs 'it ſhould be well pondered, if this Act of Invading us by War, for 'keeping our Oath to God, and obeying the lawful Conſtitutions of 'our Church and Kingdom, be juſt upon the part of the Invader; or 'if the benefit of *Reeſtabliſhing the Biſhops* upon us, will recompence 'the loſs of ſo much Chriſtian Blood, and the hazards of Diſſention 'and War, whereof the Event dependeth upon the Lord of Hoſts. 'But it is obvious to every Man's Conſideration, That this War is by 'our Adverſaries intended for another end, and hath a more deep 'and dangerous reach, otherwiſe the Prelates (if either good Chri-'ſtians or Patriots) would rather quit their Minion, Ambition, and 'worldly Pomp, than engage two Kingdoms with the hazard of true 'Religion.

'And that none may ſuſpect the ſincerity of our Intentions, the 'lawfulneſs of our Proceedings, or the truth of our Declarations 'or Accuſations againſt the Enemies of our Reformation and Peace, 'We are able, and wiſh to have occaſion to juſtify the ſame before 'the World: For unleſs we ſhould have cloſed our own Light, and 'reſiſted the known Will of God, acknowledged, ſubſcribed, and 'ſworn by his Majeſty's Father (of ever bleſſed Memory) to our 'Predeceſſors, in a ſolemn Covenant with God, and ſo often con-'firmed and ratified by Acts of this Church and Kingdom ſince the 'Reformation, we could not omit any thing which we have done. 'And albeit we be one Church and Kingdom, as free, ancient, and 'independent as any other in the World, yet for clearing of the 'Mind of our Neighbour Nation from all miſinformation and miſcon-'ſtruction of our Intentions and Proceedings, and to verify the law-'fulneſs and abſolute neceſſity of our Actions and Acts of the late 'Aſſembly, We do aſſure our ſelves, that if the States of the Parlia-'ment of *England* were Convened, and the whole progreſs of this 'Buſineſs faithfully repreſented unto them, they would without doubt 'be ſo far from cenſuring or condemning what we do, that they 'would be moved to become Petitioners to his Sacred Majeſty on our 'behalf, and approve of the equity and loialty of all our Proceed-'ings in this Cauſe. And therefore in the mean time we intreat, That 'no true Engliſh Heart entertain any Jealouſies of Us, who are con-'fident of the innocency of our Proceedings and Intentions, and free 'hitherto of all Blemiſhes againſt our Soveraign and our Neighbour 'Nation, as we beg the occaſion of manifeſting the ſame to them and 'to all the World, as we have upon the knowledg of theſe miſ-reports 'of us, cleared our ſelves of any ſuch Intention by our great Oaths 'every one to other, at our moſt frequent Meetings.

'The

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'The obtaining of this our ſo peaceable and juſt deſire, ſhall not 'only be comfortable to us their Chriſtian Brethren, ſerving as a fur-'ther tie to unite our Affections in time to come, and to ſtir us up 'to pour out our hearty Prayers to God on their behalf; but with-'out all queſtion, the Righteous Judg of all the World ſhall make 'you reap the Fruit thereof one day, and who knoweth how 'ſoon.

'In the mean time our care ſhall be upon all occaſions, to make it 'appear clearly to all the World, how far it hath always bin (and 'by the Grace of God ever ſhall be) from our Intention firſt or laſt, 'to offer the leaſt Act of Hoſtility to our Neighbour Kingdom, ex-'cepting ſo far as we ſhall be neceſſitate in our own Defence. And 'though (as God forbid) we ſhould be forced thereunto, yet ſhall 'we remain unwilling to conceive things of that kind to flow from 'the Body of that Kingdom, with whom we intend no National 'Quarrel, neither mind to wrangle with them, except in the caſe of 'Invaſion from them, but rather that this Stir hath bin contrived and 'ſet forward by ſome ill-affected Perſons to both Kingdoms; with 'whom only our queſtion is, and to whom alone we may juſtly in-'tend according to their deſert, as Men who are ſet to engage both 'Kingdoms in ſo bloody a War for their own baſe ends. And al-'though a Party raiſed from among our ſelves, that are fomented 'and maintained from abroad, whence we find the Sinews of that 'Body within our ſelves to be derived and maintained which might 'juſtly ſtir us; yet the vanity and weakneſs of our Inteſtine Adverſa-'ries, even in this caſe of Offence, is ſo far from making us take 'Fire, without manifeſt Hoſtility offered, or ingaging us in any vio-'lent courſe that may interrupt the Brotherly Love and Concord of 'theſe two Kingdoms, or blemiſh our holy Profeſſion in the leaſt de-'gree, as we are confident no malicious miſreports of our common 'Adverſaries, will induce our dear Brethren to quarrel with us for 'ſeeking to enjoy our Religion in purity, and our Laws and Liber-'ties, according to the Fundamental Conſtitutions of our Church and 'State, when we are ſo well affected to them, as we are truly ſenſible 'of their grievous Burdens, and intolerable Sufferings from the Ty-'ranny of their Hierarchy, and the fearful Bondage they undergo 'from the wicked Counſel of that Clergy ſuggeſted from *Rome*, and 'producing ſo dangerous Innovations both in Religion and Policy.

'The ſincere manifeſtation of our real Intentions, We find our 'ſelves obliged to publiſh, for ſatisfying all good Subjects in our 'Neighbour Nation, being confident they are alſo deſirous to be 'confirmed in their good opinion of us, and ſo to be armed againſt 'all Slanders and Calumnies of thoſe that endeavour the final over-'throw, and utter extermination of the Kingdom of *Chriſt Jeſus* 'from this whole Iſland, whereof we pray God to avert the Danger, 'and grant us Peace and Purity, which is the height of our deſire; 'for procuring whereof we ſhall imploy no other Weapons (except 'we be enforced) but Faſting and Prayer to God Almighty, and hum-'ble Supplications to our Gracious Soveraign.

Reviſed according to the Ordinance of the General Aſſembly, by Mr. *Archibald Johnſton*, Clerk there. At *Edinburgh* the 14*th* of *February* $163\frac{8}{9}$.

February

14 Caroli.

Star-Chamber

February 14.

The Biſhop of *Lincoln*, together with *Lambert Osbaldſton* Schoolmaſter of the Grammar School at *Weſtminſter*, was charged by Information in this Court of *Star-Chamber*, to have plotted together to divulge falſe News and Lies, to breed a diſturbance in the State, and difference between two great Perſons, and Peers of the Realm, *viz.* the late Lord Treaſurer *Weſton*, and the preſent Arch-Biſhop of *Canterbury*. The Charge was grounded upon theſe following Paſſages written by Mr. *Osbaldſton* to the Biſhop of *Lincoln*.

My dear Lord,

I *Find for certain, which I report* ſub ſigillo, *that the great* Leviathan, *and the little* Urchin, *are a great ſtorm in* Chriſtmaſs-*weather, and are at a very great diſtance one with another, inſomuch that your Lordſhip hath bin inquired of more than once, if you were come, and when you will? And the great Man was heard to juſtify the words which you were queſtioned for, namely,* That you had as good a right to the Deanery of *Weſtminſter*, as the King to his Crown. *And he was heard to ſay, That they were no more than he himſelf would ſay. The jealouſie grows great and ſharp between the* Leviathan, *and the little medling* Hocus-Pocus; *and if it increaſe, there is hopes your Lordſhip will injoy the Bleſſing of the King's Grace. Your Lordſhip will hear, that the Lord's Grace of* Canterbury *is come to lodg in Court, ſo is the Lord Treaſurer; Your Lordſhip, I hope, will pick out my meaning.*

Weſtminſter-Colledg, *Jan.* 9. 1633.

In another Letter.

MY *dear Lord, I cannot be quiet but I muſt write to your Lordſhip. The Sport is grown Tragical, any thing would be given for a ſound and thorough Charge to puſh at and confound the little* Urchin. *The* Spaniards *and the* Hollanders *are both approvedly and firmly joined to effect the ſame, if your Lordſhip lend your Aſſiſtance, which I am bound to implore and require. Let them in the mean time ſcratch one another to the Bones. I uſe freedom of heart, it is ſomething of revenge that a brave Soul (as your Lordſhip is) hath ſome hopes of ſupport in the midſt of a Flood of Deſtruction.*

Weſtminſter-School, *Jan.* 30. 1633.

Likewiſe there was produced the Biſhop's Letter of the ſecond of *February*, to a Friend, to this purpoſe.

MR. Osbaldſton *reported to me by Letters, That it was deſired that I ſhould contribute my endeavours to be uſeful to the Lord-Treaſurer againſt the little great Man, and aſſured me that they were mortal Enemies. But for my part I refuſe to meddle with any ſuch thing; yet I pray you learn whether it be ſo or no, leſt ſome have gulled* Mr. Osbaldſton *in his three laſt Letters. If the Lord Treaſurer would be ſerved by me, he muſt*

free

An. 1638. *free me from the Bonds of the* Star-Chamber, *otherwiſe let them fight it out for me.*

It was anſwered in the behalf of Mr. *Osbaldſton*, That what was done by him, was done in private Letters, ſealed to an honourable Friend. And it was confeſſed to be Error in him to uſe ſuch familiarity in ſome Paſſages therein expreſſed. That he doth deny, That by the Appellations therein mentioned, he did mean the Arch-Biſhop's Grace, or the Lord-Treaſurer. But he meant thereby one *Spicer*, which took upon him to be a Doctor and was none; that he had divers times uſed, between jeſt and earneſt, to call him *little Urchin*, *Vermin*, *little Hocus Pocus in the Velvet Jerkin*, and that there were ſome differences between him and the Biſhop of *Lincoln*; and by *Leviathan*, he meant, Chief Juſtice *Richardſon*, who had formerly committed *Spicer* (in *Weſtminſter-Hall*); and he confeſſed he did merrily uſe that Name, the Perſon being apt to take a Jeſt in good part.

On the Biſhop of *Lincoln*'s part it was offered, That if any ſuch Letters were ſent by Mr. *Osbaldſton*, yet he denied the receit of them; and for the interpretation of thoſe Appellations, he conceived the Writer was the beſt Interpreter; that he had many times heard Mr. *Osbaldſton* call *Spicer* by the Name of *Hocus Pocus*, and he uſed to call *Richardſon* by the name of *Leviathan*, and denieth the publiſhing of any ſuch Letters, or ſo much as the ſpeaking of any ſuch at his Table.

The Attorney General urged, That the Interpretation given by the Defendents would not ſerve their turn. That thoſe Letters of Mr. *Osbaldſton* were found in a Box in the Biſhop's Houſe at *Bugden*; and when the Biſhop heard they were found, he ſaid, *Osbaldſton* was undone. That the Biſhop's Secretary *Walker*, and the Clerk of his Kitchen had heard their Maſter diſcourſe of the ſubject Matter of theſe Letters, and that theſe Names of Appellation were frequent, between the Biſhop and *Osbaldſton*, and that by them was meant the Arch-Biſhop and the Treaſurer.

But it was further offered, in the behalf of Mr. *Osbadſton*, That the Interpretation made by others, ſhould not be the ruin and deſtruction of the Defendents. That the Biſhop's ſaid Secretary and Clerk of his Kitchen (Witneſſes againſt him) were lately cenſured in this Court for tampering with Witneſſes, and were Perſons expecting the Mercy of the Court; and Witneſſes were heard on the behalf of *Osbaldſton*, that he frequently called Dr. *Spicer* the *little Hocus Pocus*, and the *little Urchin*; and the Reaſon was, becauſe *Spicer* had made many promiſes to give a Library worth 40 *l.* to the School at *Weſtminſter*, but failed in the performance. And it was further proved, that he frequently called the Lord Chief Juſtice *Richardſon*, *Leviathan*, who had committed Dr. *Spicer* in *Weſtminſter-Hall*.

And in the defence of the Biſhop of *Lincoln* it was further urged, That his ſaid Secretary, *Walter Walker*, did frequently receive, and had commiſſion to open his Letters in his abſence; and what Letters he received he could not tell; and if thoſe Letters were found at his Houſe, they were laid up and concealed by his Secretary.

And further the Biſhop petitions the Court, informing them how unable he was to make his defence, being his Majeſty's cloſe Priſoner in the *Tower*. After which Mr. Attorny General replied.

Sir

14 *Caroli.*

Sir John Banks *his Reply about the Cenſure of my Lord Biſhop of* Lincoln, *and Mr.* Osbaldſton, *the* 14*th of* February, *in the* Star-Chamber, 1638.

Interlocutory Paſſages.

'MY Lords, The Defendents Counſel in their defence, does except againſt the Charge of the Information, and they laboured 'much to tie the Matters charged in the Information to the very day 'of the Month, ſeeking thereby to eſcape the Charge, contrary to 'their Judgments and the common courſe of Juſtice.

'Alſo they made queſtion where thoſe Letters ſhould be found: 'but if they will, they may know that they were found at my Lord 'Biſhop of *Lincoln*'s Houſe at *Bugden*, as is manifeſt by their own 'Witneſſes Interrogatories. 1. & 71.

'In the anſwer to which Interrogatories, three Witneſſes do all ſay, 'That they heard they were found in a Band-Box in my Lord of *Lin-'coln*'s Wardrobe.

Mr. *Recorder.*

'My Lords, We have examined four Witneſſes, which do all de-'poſe, That there were no Letters found in the Band-Box, and that 'his Lordſhip did never leave any Letters to be kept there.

Mr. *Herbert.*

'It appears by their own Witneſſes, that there were ſuch Letters 'found; but this is not to the purpoſe where they were found, but 'now they are found, the hainouſneſs of them is the point in hand.

Lord *Keeper.*

'It may be that ſome of the Lords may find ſome things in the De-'poſitions that may ſerve one way or other, therefore I think it good 'they ſhould be read; but for my own part, I am ſatisfied in my 'judgment.

Mr. Attorney General further proceeded, ſaying;

'My Lords, the Defendents Counſel have made two Defences, one 'for Mr. *Osbaldſton*, and the other for the Biſhop of *Lincoln*.

'The Counſel for Mr. *Osbaldſton* except againſt the Witneſſes that 'prove the interpretation of the Letters, and would have Mr. *Osbaldſton* 'to expound his own meaning, and if this ſhould be allowed, every 'Libeller would thereby eſcape the Cenſure of the Court.

'Firſt, They except againſt *Gadwallader Powel*, becauſe he was be-'fore ſentenced in the *Star-chamber*: But, my Lords, his Cenſure in the '*Star-chamber* was not for any matter of Perjury, or Crime that ſhould 'take away his Teſtimony; and the ſame thing for which he was Sen-'tenced, was my Lord Biſhop himſelf Sentenced at the very ſame 'time.

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'Secondly, The ſecond Exception was, that Mr. *Powel* and Mr. *Walker* were made Defendents in this Court to take away the Teſtimony in this Cauſe, and the reaſon why they were not proceeded againſt (ſaid the King's Atturney) was, my Lords, becauſe my Lord Biſhop of *Lincoln* would not perfect his Examination, by which we ſhould have the better proceeded againſt them, and when my Lord Biſhop hath perfected his Examination, they ſhall be proceeded againſt.

'Again, They except and ſay, that *Walker*, being Secretary to my Lord Biſhop of *Lincoln*, he ought not to be Witneſs againſt my Lord of *Lincoln*.

'My Lords, when a Secretary is called and examined upon Oath, he ought to diſcover the truth of what he is examined upon, and not to perjure himſelf.

'Again, they ſay, that there are no expreſs words in the Letters, whereby it doth certainly appear, that theſe words were not meant of my Lords Grace of *Canterbury*.

'My Lords, this ſticks at all Cauſes of Juſtice: for if they ſhall be ſuffered to interpret their own words, by this means all Libellers would eſcape puniſhment.

'The third part of the Defence is this: That Mr. *Osbaldſton* ſhould call Doctor *Spicer*, *Vermin*, *Hocus Pocus*, *Urchin*, and the like: therefore ſay they, thoſe terms in theſe Letters are not to be applied to the Archbiſhop of *Canterbury*, but to Dr. *Spicer*. This is no excluſion, for I ſhall ſhew that thoſe words muſt needs be intended and ſpoken againſt the Arch-Biſhop of *Canterbury*, and not of Dr. *Spicer*.

'In the Letter of the 9*th* of *Jan.* the words cannot be applied to be ſpoken of ſo mean a Man as Dr. *Spicer*: and ſo likewiſe in the Letter of the 30*th* of *Jan.* wherein he deſires, that it ſhould be kept ſecret: and if theſe words had been ſpoken of Dr. *Spicer*, they needed not be kept ſo ſecret. For *Hocus Pocus* and *Vermin* being ſpoken of Dr. *Spicer*, were publiſhed in *Weſtminſter Hall*, and other places thereabouts, and therefore needed no ſecreſie.

'And that by the *great Leviathan*, it ſhould be underſtood to be meant of the Lord *Richardſon*, there is no colour for it, my Lords.

'As for *Osbaldſton*, he hath long bin a turbulent Medler, and a falſe Intelligencer of the Affairs of State; I may ſay he is *Hocus Pocus*, and a Jugler in the Affairs of State; and yet I am ſorry that I ſhall charge him with that which is worſe than the Charge laid againſt him in the Information, for he is guilty of groſs and wilful Perjury, for he hath denied upon Oath that which was plainly proved againſt him.

'Another Argument is, This *Osbaldſton* is now run away, which in our ſenſe doth ſhew a guiltineſs of the Offence. 25. *H.* 5. *One being indicted for Felony, if he runs away, he then forfeits his Goods.*

'As for my Lord Biſhop of *Lincoln*, he ſtands upon three things.

'Firſt, That he received not the Letters.

'Secondly, That he did not publiſh them.

'Thirdly, That he did not entertain them.

'For the firſt, It is proved by Witneſſes, That two dayes after *Twelve-tide* he gave order that his Letters ſhould be opened that concerned his Law Suits, ſo that thereby he might colour the Matter, that they might not come into his own Hands. Again, he doth not ſay, That he did not receive the Letter of the 9*th* of *January*, beſides

'his

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'his own Letter of the ſecond of *January*, makes mention of three 'Letters which he received from Mr. *Osbaldſton*: In one of which he 'ſhould contribute Mony to the uſe of the Lord Treaſurer for the 'ruin of the *little great Man*: So that it is confeſſed by his own Wri- 'tings that he did receive them. And the Letter of the 30*th* of *Janua- 'ry* was ſent by a ſpecial Meſſenger to *Lincoln*, therefore its moſt pro- 'bable that he received it, and your Lordſhips have heard *Cadwalla- 'der Powel* ſay, That my Lord of *Lincoln* demanding of him, Whe- 'ther any of *Osbaldſton*'s Letters were found? And he anſwering that 'they were. Then ſaid the Biſhop, *Osbaldſton* is undone: So that I 'conceive your Lordſhips will not think, but that his Lordſhip recei- 'ved the Letters.

'But it is objected, That this is no Offence; For, ſay they, it's no 'Offence to receive Libellous Letters, and to keep them private. And 'as for my Lord of *Lincoln*, he did never publiſh any of them; and 'there is difference betwixt *Osbaldſton*'s Caſe, and my Lord Biſhop of '*Lincoln*'s, for they were only ſent to my Lord of *Lincoln*, but he 'did never contrive nor publiſh any of them.

'It is evident that he did publiſh theſe, for they were ſpoken of 'by *Powel* and *Walker*, and the Women did talk of them in the 'Market.

'But they ſay, That ſome of his Attendants never heard him pub- 'liſh any ſuch Speeches at his own Table.

'It is like he did not make it his Table-Talk: But, my Lord, under 'favour, my Lord of *Lincoln* hath bin too forward to entertain and 'publiſh libellous Letters.

'If any receive libellous Letters, the receiving is not a publiſhing 'of them, as it is in 9 *Report. fol.* 59.

'In the 5*th Report*, there is defference betwixt Words and Letters, 'which concern a private Man and a publick Officer.

'If they do concern a private Man, it is no offence in him that 'conceals them: but if they concern a publick Officer, he that doth 'conceal them, is guilty, and ſhall be puniſhed for a Libeller.

'And I conceive my Lord of *Lincoln* to be guilty of Perjury in 'this Cauſe; and, my Lord, that Perjuries are puniſhable in this 'Court, (though they are not charged in the Information) doth ap- 'pear, *Hill.* 2. *Eliz.* & *Hill.* 4. *Eliz.*

'My Lords, I do wiſh that this Age that is ſo much infected with 'deviſing and divulging ſcandalous Letters and Words, that ſome ex- 'emplary Example might be made, that we might hear no more of 'ſuch ſcandalons Matters.

'My Lords, before the Conqueſt they had very ſtrict Laws againſt 'Libellers, (as to have their Tongues ſlit); And in the time of *Ed.* 1. 'and *Ed.* 2. there were ſpecial Commiſſioners appointed to enquire 'after Libellers, as in the cloſe, *Roll.* Parliament, and ſo I humbly 'leave them to your Lordſhips.

The Court proceeding to Sentence, declared in general, 'That 'they had received ſatisfaction that Mr. *Osbaldſton* was the Contriver, 'Writer, and Publiſher of thoſe odious Appellations of thoſe two 'great Perſons. That his Defence was ridiculous, and that his End 'was the ruin of the Arch-Biſhop of *Canterbury*.

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'As for the Biſhop of *Lincoln*, they ſaid, He was a Perſon of Quality, Parts, and Abilities, and one that once ſat as Judg in this Court: That he ſhewed himſelf very indiſcreet in concealing thoſe Letters, and had thereby made himſelf guilty of a high Crime.

But for further ſatisfaction, take theſe Speeches following made in Court at the ſaid Cenſure.

Sir John Finch, *Lord Chief Juſtice of the* Common Pleas, *ſpake firſt, the Lord* Cottington *being abſent.*

My Lords,

'THere are two Defendents, ſo there are two Charges in the Information againſt them.

'Firſt, They are charged with giving *Nick-names* unto two Honourable Perſons of this Realm.

'Secondly, They are charged to *Plot*, and contrive to work an utter ruin and overthrow to my Lord Arch-Biſhop of *Canterbury*.

'And in thoſe Charges, I ſhall obſerve ſeveral ſteps and degrees.

'Firſt, An Endeavour and Agreement between *Osbaldſton* and my Lord Biſhop of *Lincoln*, to reproach and ſcandalize theſe two Noble Perſons.

'Secondly, A publiſhing and divulging of the ſame.

'In the ſecond Charge I obſerve theſe Steps.

'Firſt, A falſe Rumour raiſed by them.

'Secondly, A publiſhing of the ſame.

'Thirdly, An endeavour to work the ruin of the Lord Arch-Biſhop of *Canterbury*, by contributing Charges to effect the ſame.

'And how far *Osbaldſton* and the Biſhop of *Lincoln* are guilty, I appeal to your Lordſhips. I ſhall now ſhew the extent of the Information, the Charge being laid to be in or about the 10*th* of *February*, *M.* 9 *Car.* Which Charge doth comprehend all libellous Letters, either before or ſince 9 *Car.*

'But it's true, If in the Letters will not appear that ſenſe which is contained in the Charge, then they ſhall not be within the Charge of the Information, and therefore the Information admits of as much favour to the Defendents as may be: For this Court doth rather deſire to find Men Innocent than Guilty.

'I ſhall now come to the Particulars, and ſhall herein obſerve the courſe of the Defendents Counſel, who have diſtinguiſhed my Lord of *Lincoln*'s Caſe from *Osbaldſton*'s, and ſo ſhall put a difference between them: For though *Osbaldſton* be guilty, yet it's poſſible that my Lord of *Lincoln* may not be guilty.

'And as for *Osbaldſton*, I hold him as clearly guilty of the Charges in the Information, as any have bin ſentenced in this Court.

'For firſt, *Osbaldſton* was the Contriver and publiſher of thoſe ſcandalous Letters; and I think there is no doubt at all, but that they were meant of the late Lord Treaſurer, and the now Lord Biſhop of *Canterbury*.

'Secondly, Your Lordſhips may obſerve, what interpretation the Lord Biſhop of *Lincoln* would make of them: How that my Lord of *Lincoln* himſelf did conceive that he meant the Arch-Biſhop of *Canterbury*.

'The

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'The third is by Witneſſes.

'Firſt, *Walker* ſaid, That he ſaw divers Letters wherein *Osbaldſton* 'explained his meaning, That he meant my Lord Treaſurer, and my 'Lord's Grace of *Canterbury*.

'Again he ſaith, He ſaw ſome Letters wherein *Osbaldſton* uſed by-'words, which my Lord of *Lincoln* did not underſtand until *Osbald-'ſton* had explained them.

'Again he ſaith, His Lordſhip did explain many of theſe dark 'Words that *Osbaldſton* wrote unto him, ſhewing that he meant my 'Lord's Grace of *Canterbury*.

'Again he ſaith, That *Osbaldſton* ſpoke baſe words of the Arch-'Biſhop.

'And theſe be his Reaſons why he conceives, that by the Words in 'the Letters he means the Arch-Biſhop of *Canterbury*; which I con-'ceive be very good and ſufficient Reaſons.

'The ſecond Witneſs is *Cadwallader Powel*, who ſaith, He uſed 'theſe words in a Letter, *The little Vermin, the falſe Mediator, the 'Hocus Pocus*. And the Biſhop of *Lincoln* being in the *Tower*, de-'manded of *Powel*, Whether any of Mr. *Osbaldſton*'s Letters were 'found? who anſwered, That they were found; Then, ſaid the Bi-'ſhop, *Osbaldſton* is undone.

'Thus I have thought good to make a difference betwixt my Lord 'of *Lincoln* and Mr. *Osbaldſton*; for it is confeſſed by my Lord of *Lin-'coln*, that by one of thoſe is meant my Lord *Treaſurer*; but that ſhall 'not convict Mr. *Osbaldſton*, but it is plain by his own words what he 'meant. And that by thoſe words ſhould be meant Dr. *Spicer*, I hold 'it ſo ridiculous a Defence, that I think he could not have deceived 'his School-Boys with it.

'And that by *Leviathan* ſhould be meant my Lord *Richardſon*, 'there is no colour for that; though for Dr. *Spicer* were confounded, 'what would the King or State ſuffer by his ruin or confuſion? ſo 'that certainly it is meant of the Arch-Biſhop of *Canterbury*.

'For Mr. *Osbaldſton*'s going away, it is not judicially known unto 'me, and therefore leave it to your Lordſhips.

'And as for the ſecond Charge, That he did Plot and Contrive 'for the ruin of the Lord Arch-Biſhop of *Canterbury*, I hold that he is 'guilty, and that he did ſtir my Lord of *Lincoln* to contribute Mony 'for that purpoſe.

'For my Lord of *Lincoln*, I ſhall only ſay this, That the Letter of 'the *9th* of *January* is ſuch a turbulent and ſcandalous Libel, that a 'Man of Place and Quality ſhould not give any way thereunto; but 'that he ſhould receive it, entertain it, and publiſh it, this ſhews that 'he had long a rancor and hatred towards my Lord Arch-Biſhop.

'And for the *Nick-names*, I ſhall find my Lord of *Lincoln* guilty as 'far forth as Mr. *Osbaldſton*, for he did entertain theſe Letters, and 'did publiſh them, and it was an Agreement and confederacy ſo to do.

'By way of Defence, my Lord Bp of *Lincoln*'s Counſel did allege; 'Firſt, That there was an Agreement between *Osbaldſton* and my 'Lord of *Lincoln*. Again, they ſaid, That there was no certain Ap-'pellation of my Lord Arch-Biſhop of *Canterbury*.

'Secondly, There was proof that my Lord of *Lincoln* did not ſpeak 'any ſuch words at his Table.

'Thirdly, They endeavoured to prove, That my Lord of *Lincoln* 'never

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'never wrote any Letters containing any libellous Matter; when-as 'there was a Letter under his own Hand, which he would not con- 'feſs, although he was brought like a Bear to the Stake, and three 'times examined about it.

'Again they ſaid, That he did not receive them, and yet he wrote 'an anſwer to them.

'Again, Admit he did receive them, yet he did not publiſh them, 'but only delivered them to Mr. *Walker* his Secretary.

'Mr. *Attorney* well remembred the Law, That if a libellous Letter 'concerning a private Perſon, then he may conceal it; but if it con- 'cern a publick Officer, then the concealing of it makes him guilty 'thereof: And that the Letters were publiſhed is moſt certain, for 'they were openly ſpoken of by Women in the Market.

'Another thing of Mr. *Recorder*'s was this; That if my Lord Biſhop 'of *Lincoln* did underſtand *Osbaldſton*'s meaning, yet he did not un- 'derſtand that he meant my Lord *Treaſurer*, and my Lord's Grace of '*Canterbury*.

'Then, I ſay, He hath ſcandalized my Lord *Treaſurer*, and my 'Lord Arch-Biſhop of *Canterbury*; for by his own Writing he ſaith, 'That it was meant of theſe Perſons.

'The next is, the charge of a *Plot* laid for the ruin of my Lord 'Arch-Biſhop of *Canterbury*, but I will not condemn my Lord Biſhop 'of *Lincoln* for that.

'The next Defence of Mr. *Recorder* was from this, That Mr. *Oſ- 'baldſton* wrote to the Biſhop of *Lincoln*, ſaying, *I hope you will pick 'out the meaning*, &c. ſo that there was no Confederacy and Agree- 'ment between them.

'Firſt, I ſay, He received the Letters, and publiſhed them.

'Secondly, He was ſo far from nipping theſe Scandals in the Buds, 'that he enquired further after them.

'Thirdly, That he was ready and willing to contribute Mony to- 'wards the ruin of my Lord Arch-Biſhop of *Canterbury*.

'I am ſorry that a Man of his Rank and Condition, ſhould make 'himſelf Companion with a School-maſter.

'And as for the Aſperſion which they caſt upon Mr. *Walker*, to take 'away his Teſtimony, I ſee no juſt cauſe thereof.

'For they ſaid, Either his Depoſition is impoſſible and beyond his 'knowledg, or elſe that his Reaſons that moved him thereunto, are 'inſufficient. But for my part I know not how a better Reaſon can 'be given.

'Another Objection againſt *Walker* is this, That it was long before 'theſe Letters were brought forth; and that theſe are not all, but 'there ſhould be a third Letter.

'I ſay, It is a wonder that ſo many were brought forth now. But 'that they had bin loſt, or that my Lord of *Lincoln* had burnt them: 'for had I a Friend that I profeſſed ſo much kindneſs to, as he did to '*Osbaldſton*, I ſhould be very ſorry that he ſhould ſuffer for his Letters.

'For the Teſtimony of *Cadwallader Powel*, I hold his Teſtimony as 'fit to be taken as my Lord Biſhop of *Lincoln*.

'And for the Charge of the Defendents Counſel, for the ſubtil pro- 'ſecution by the Sollicitor *Kilvert*, I ſhall ſay little, I know him to be 'of a good Carriage in other Buſineſſes, therefore if any fault be, I 'ſhall only deſire that it may be amended for the time to come. I

'hold

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'hold that theſe Witneſſes ſtand upright; and as for the other Witneſſes, I ſubmit unto your Lordſhips, for in Sentence I muſt conſider 'the nature of the Cauſe, and the Perſons.

'Firſt, I ſhall not acquit my Lord Biſhop of *Lincoln*, nor condemn 'him ſo much as *Osbaldſton*.

'I muſt conſider the Perſons offending, and the Perſons againſt 'whom they have offended.

'For the Perſons offended, the firſt is the Lord Treaſurer of *Eng-* 'land, one of his Majeſty's Privy-Council.

'And the ſecond is the Metropolitan of *England*, who hath ever 'carried himſelf with great truſt and fidelity towards his Majeſty and 'the Publick Good.

'And I verily think, that none can accuſe him of the leaſt corrup- 'tion. In a Court where moſt Cauſes of the Clergy are tried, I did 'never receive any private Meſſage from his Lordſhip in the behalf of 'any Clergy Man, which is a thing to be much obſerved in him.

'For Mr. *Osbaldſton*, he hath bin a Parſon, a Prebend, and a School- 'maſter. My Lords, I will not ſuffer him, he is ſo turbulent a Perſon, 'and ſcandalous Libeller, to teach and inſtruct others. I would have 'him therefore deprived of all his Spiritual Dignities and Promotions, 'that he never have any place in the Church; neither hold I it fit that 'he ſhould teach Scholars, (ſhould I do him juſtice, I ſhould adjudg 'him ſome ſevere corporal puniſhment): I would have him deprived 'in the High-Commiſſion Court, and then to be ſet on the *Pillory* in 'this *Palace-Yard*. And that he may be an Example to his Boys, I 'would have him alſo to ſtand in the *Pillory* in the *Deans-Yard*, and 'one Ear to be nailed in the *Palace*, and the other Ear to be nailed in 'the *Deans-Yard*.

'I do fine him *five thouſand pounds*, and Impriſonment during the 'King's pleaſure.

'And I do fine my Lord Biſhop of *Lincoln five thouſand pounds*.

'And I give to my Lord Arch-Biſhop of *Canterbury*, *five thouſand* 'pounds apiece for Dammages.

My Lord Chief Juſtice Bramſton's *Speech.*

My Lords,

'THere are two Defendents, and they have made two Defences. I 'find my Lord Biſhop of *Lincoln* to be guilty, though not ſo full 'and in ſo high a nature as Mr. *Osbaldſton*.

'They are charged to Plot and Confederate together, to ſcandalize 'two Honourable Perſons, and to raiſe Diſcord in the State, and to 'ſeek the ruin and overthrow of my Lord Arch-Biſhop of *Canterbury*.

'*Osbaldſton* wrote a Letter of the *9th* of *January*, and other Let- 'ters, which my Lord Biſhop of *Lincoln* is charged with to receive 'and publiſh.

'That *Osbaldſton* is guilty of every part of the Charge, I ſhall not 'need to make any queſtion; neither ſhall I much ſtand upon the va- 'lidity of the Witneſſes, for I ſee nothing but that he is guilty of all 'the Charge.

'I will begin with the firſt Letter of the *9th* of *January*, in which 'he would have two other Perſons meant there, and not my Lord

'*Treaſurer*,

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'*Treaſurer*, and my Lord's Grace of *Canterbury*; but the one to be 'meant my Lord *Richardſon*, and the other Doctor *Spicer*.

'Now what compariſon was there between thoſe two Perſons?

'The one was Lord Chief Juſtice, and as for the other, every one 'knows what he is; ſo that it cannot be meant of theſe two Perſons, 'for there is no compariſon between them.

'And for theſe words, the *little medling Hocus Pocus works his own 'confuſion*, &c. How would this be meant of Dr. *Spicer*? For how 'did Dr. *Spicer* work his own Confuſion? And who would give ſo 'much to confound Dr. *Spicer*? He is no ſuch eminent Perſon, that 'any ſhould give ſo much to confound him. So that this Letter is very 'clear againſt *Osbaldſton*.

'And it ſhews a petulent Spirit, and an inveterate hatred and ma- 'lice, that he did long bear againſt my Lord of *Canterbury*, without 'any reaſon or cauſe at all, for he doth not ſhew that he had ever re- 'ceived any wrong or injury from his Grace.

'I come now to the other Letter, wherein *Osbaldſton* writ to the 'Biſhop of *Lincoln* to contribute Charges to my Lord Treaſurer, for '*the ruin of the little great Man*; by which muſt needs be meant the 'Arch-Biſhop of *Canterbury*: ſo that I ſhall not ſtand longer upon 'Mr. *Osbaldſton*; for if there were no Witneſſes againſt him, yet I 'find Matter enough in his own Letters to prove him guilty of the 'whole Charge, and therefore I ſentence him with my Lord *Finch*.

'For my Lord of *Lincoln*, I cannot ſentence him as a *Libeller*, for 'there muſt be either a contriving or a publiſhing to make a Man a 'Libeller, as Mr. *Recorder* well obſerved.

'But I find him guilty of this Charge, That he received the libellous 'Letters; and of this Charge, That he aſſented to contribute Mony 'for the ruin of my Lord Arch-Biſhop of *Canterbury*.

'But it is objected, That he concealed the Libel, and therefore he 'is not guilty.

'The concealing of it doth not clear my Lord Biſhop of *Lin- 'coln*.

'For (as Mr. *Attorny* well obſerved) there is a difference between 'a Letter that concerns a private Perſon, and a public Officer.

'If a libellous Letter concern a private Perſon, he that receives it 'may conceal it in his Pocket, or burn it; but if it concern a public 'Perſon, he ought to reveal it to ſome public Officer or Magiſtrate.

'But it is true, if he divulge it to any but to a Magiſtrate, he is a 'Libeller; and why ſhould my Lord of *Lincoln* keep theſe Letters by 'him, but to the end to publiſh them, and to have them at all times 'in a readineſs to publiſh upon every occaſion?

'For his being degraded, I leave it to thoſe of the Eccleſiaſtical 'Court, to whom it doth belong.

'And for the other part of his Sentence of the *Pillory*, I am very 'ſorry and unwilling to give ſuch a Sentence upon any Man of his 'Calling and Degree. But when I conſider the Quality of the Per- 'ſon, and how much it doth aggravate the Offence, I cannot tell how 'to ſpare him: for theſe conſiderations that ſhould mitigate, makes 'the Offence the greater, which makes me join with my Lord *Finch* 'in that part alſo.

'For my Lord of *Lincoln*, I do fine him *three thouſand pounds*, and 'Impriſonment.

'And

Caroli 14.

'And ſeeing the Offence is againſt ſo Honourable a Perſon as my Lord's Grace of *Canterbury*, and there is not the leaſt cauſe of any 'aggrievance or wrong that he hath done to my Lord of *Lincoln*, 'therefore in Damage I join with my Lord *Finch*.

'Secretary *Windebanck*, and Secretary *Cook*, did both join with my 'Lord *Brampſton* for the Biſhop of *Lincoln*, and with my Lord *Finch* 'for Mr. *Osbaldſton*.

Mr. Comptroller *his Speech.*

My Lords,

'FOr *Osbaldſton*, conſidering his place, I cannot but condemn him 'very much, for by what hath bin alleged, I verily believe that he 'did mean my Lord *Treaſurer*, and my Lord Arch-Biſhop of *Canter-'bury*: And my Lord Biſhop of *Lincoln*, and Mr. *Osbaldſton*, are both 'guilty of Crimes in a high nature; one would have thought that 'my Lord Biſhop of *Lincoln*, being a Perſon of that Place and Qua-'lity, ſhould not have run himſelf into ſuch danger as to have med-'led with ſuch Matters; for had he not met with good Counſel, I con-'ceive that he had plunged himſelf in as deep as *Osbaldſton* in theſe 'practices.

'And as for *Osbaldſton's* Sentence, I agree with my Lord *Finch*.

'And for my Lord Biſhop of *Lincoln*, I hold with my Lord '*Bramſtone*.

'As for my Lord of *Canterbury* his Carriage, it is well known to be 'upright, and therefore I leave it.

The Lord Newburgh *his Speech.*

My Lords,

'FOr *Osbaldſton*, I find him guilty of every part of the Charge; for 'the other I cannot ſentence ſo deep; for I think my Lord of *Lin-'coln* is not guilty of the Plotting and Confederating, for the ſcandalizing 'of thoſe two honourable Perſons; I leave it to your Lordſhips 'Judgment, and lay all the Charge upon *Osbaldſton*.

The Earl of Dorſet's *Speech at the Sentence of Mr.* Osbaldſton.

'ARiſtotle in his Politicks, admits not in the Government, of any 'School-maſter to the exerciſe of Civil Duties, School-maſters 'commonly proving the Apes of Tyranny; and being uſed to impe-'rioufneſs over Scholars, if you put a Sword of Juſtice into his 'Hand, you may eaſily gueſs how he will lay about him in the State 'and City.

'I know not with what ſpirit of Vanity this School-maſter was poſ-'ſeſſed, but we ſee the monſtrous birth of it; if the Pedant had kept 'within his Rules, he might have bin taught not to have diſturbed Go-'vernment. Look upon this Pragmatical Perſon, and behold the 'Fact, and what were the Motives, what the Reaſons to bring himſelf 'upon the Stage.

An. 1638.

'His ill thoughts expreſt in Ink as black as his Crime; his Pen was 'ſteep'd in Vinegar and Gall. What was it that ſtain'd the Biſhop of 'Lincoln's Ear with the poiſon of ignominious Titles? It was the Pe-'dant. Who was it, that as a Thief that had ſtollen another's good 'name away, cries, Burn my Letters, on purpoſe to go in darkneſs of 'the night? It was a Parſon. Who was it that endeavoured to ſtain 'the purity of my Lord Arch-Biſhop's Honour with foul aſperſions of 'Titles, *little Grace*, *little Urchin*, *Vermin*, *&c?* It was Mr. *Osbald-'ſton.*

'Well, I will ſpeak what I think, I fear none but God and the King, 'and I ſpeak in truth, I am ſure I ſhall offend neither of them. I have 'enquired of them who are learned in the Laws, who ſay, That the 'plaineſt Sence is to be taken. The Divines will tell you, That the 'eaſy Places ſhall explain the more obſcure. And if any Man would 'examine thoſe Letters, and with judicious comparing the Title of '*little Grace* with the other, he will be forced to confeſs the ſenſe of 'the other, or elſe be blind at noon-day.

'But as Truth may be cleared by ſtrong and ſolid Reaſon, ſo it 'may be darkned and ſhadowed by the colours of probability of ap-'pearances.

'But, my Lords, I think the School-maſter alleges his Services to 'the Common-Wealth, and his being ſlighted for it; That he hath 'bin theſe many Years, and dedicated his Pains and Time for the 'good of the Flowers of the Kingdom, *Generoſa debentur.* But I 'will conſider him as a Man ſubject to his Paſſion, (which to take 'away, were to take away the Man himſelf): I will allow him his 'Infirmities, but obſerve a little his Envy, ſee his Merits and Deſerts, 'which he hath ſo fouly abuſed, with the height of inſolency and 'bold acceſs to the very Secrets of Empire and Government, to the 'diſgrace of thoſe Men of which the Common-Wealth conſiſts. I 'know not, (my Lords) the Fault of the Man may tranſport my 'Speech that I abuſe your Patience; but I ſhall give my cenſure of 'him; I learn'd in the Univerſity, how that a Syllogiſm doth ever 'follow the worſt part, *ſequitur deteriorem ad partem*, I am ſure his Let-'ter doth: he might have found a better *medium* to make up a Syllo-'giſm of a Libel, for he hath concluded in the worſt Body of all the 'Figures, *viz.* in *Bocardo:* So I muſt concur with my Lord *Finch* 'in cenſure.

'As for my Lord of *Lincoln*, linked in this Cauſe, I honour the 'Man for many Cauſes, in many Relations, but for his Secretary *Wal-'ker*, and the Clerk of his Kitchin, and the reſt (where-ever the 'Letters were found); they have dealt like *Acteon's* Hound, that 'turned againſt and devoured his Maſter; the falſe Secretary, the un-'juſt Steward, and the unlawful Clerk of the Kitchin, who were fed 'at my Lord Biſhop of *Lincoln's* Table in his proſperity, and now 'in his adverſity they fall upon their Maſter to devour him. I muſt 'ſay of him, he hath forgotten himſelf, and agree to the Cenſure 'which the Lord Chief Juſtice *Bramſtone* hath given againſt him. He 'did not as *Peter* did, when he had denied his Maſter, gone out and 'weep bitterly for his Offence; but he juſtifies himſelf, and there-'fore he is fallen into the Lime-twigs of his Adverſary.

The

The Earl of Arundel's *Speech.*

My Lords,

'FOr *Osbaldſton*, I find him guilty of every part of the Charge; 'and that he is not ſentenced in a higher nature is, *cauſa de bona* 'fortuna, for had he bin ſuffered to have perſiſted in his courſe, he 'had ſurely fallen into moſt dangerous Error.

'And therefore I join in Sentence for him with my Lord *Finch.*

'I am ſorry for my Lord Biſhop of *Lincoln*, he hath ſhewed him-'ſelf very indiſcreet, being a Perſon of Place and Quality, he now 'falls low in his Eſtate and Dignity; and theſe things will make his 'Spirit fall lower than his Body; and therefore I agree in all things 'with my Lord *Finch.*

Marqueſs Hamilton *his Speech.*

My Lords,

'FOr *Osbaldſton*, I find him guilty of the whole Charge. For my 'Lord Biſhop of *Lincoln*, I cannot find him ſo deeply guilty as 'Osbaldſton. But certainly my Lord's Grace of *Canterbury* hath bin 'exceedingly wronged. Therefore I give Dammages with my Lord 'Finch.

'And for *Osbaldſton*, I ſentence him with my Lord *Finch.*

'And as for my Lord Biſhop of *Lincoln*, I join with my Lord 'Brampſton.

The Earl of Mancheſter, *Lord Privy-Seal, his Speech.*

My Lords,

'FOr *Osbaldſton*, if you take his Words, his Meaning, and the End, 'they will appear to be very heinous.

'Firſt, His Words, to bring contempt and diſgrace upon my Lord 'Biſhop of *Canterbury.*

'Secondly, His Meaning is expreſſed in the words themſelves, to be 'againſt two Honourable Perſons.

'Thirdly, And for the End, that was moſt dangerous and perni-'tious. It was to overthrow and work the confuſion and ruin of my 'Lord's Grace of *Canterbury.*

'Setting aſide all the Witneſſes, I will condemn my Lord Biſhop of 'Lincoln out of his own Mouth, for he denies all.

'Firſt, He denies the receiving of the Letter.

'Secondly, The entertaining of them.

'Thirdly, The publiſhing of them.

'Not as *Peter* did when he had denied his Maſter, to go out and 'weep bitterly for his Offence, but to juſtify himſelf: Yet how can 'my Lord of *Lincoln* deny the Letter that he wrote with his own 'hand, and yet he will not confeſs it to be his own Letter.

'And after he was Priſoner in the *Tower*, he called to Mr. *Cadwal-'lader Powel*, and demanded if any of Mr. *Osbaldſton*'s Letters were 'found? Who anſwered, That they were found. Then ſaid the Bi-'ſhop, *Osbaldſton* is undone.

'Secondly, He deſired that they ſhould be kept cloſe and ſecret.

An. 1638.

'Thirdly, Though they were kept close, and only put into the Pocket, if they concern a publick Person, he is a Libeller.

For *Osbaldston*, besides all the corporal punishment, I hold fit that 'he should acknowledg his Offence in writing to my Lord's Grace of '*Canterbury*.

'And as for the Bishop of *Lincoln*, I hold that he should also make 'an acknowledgment in writing to the Arch-Bishop, for he is a Per-'son of great Place and Quality. And my Lord of *Lincoln* is under 'Canonical Obedience to the Arch-Bishop by his Oath; and Disobe-'dience is a breach of his Oath; therefore he should acknowledg 'his Offence under his own hand.

'For my Lord's Grace of *Canterbury*, he hath ever carried himself 'with much gravity in his place, and Piety towards God and the 'King, and the public Good; therefore I leave him in honour as I 'found him, and sentence the Bishop of *Lincoln* with my Lord *Bram-'ston*; and *Osbaldston* with my Lord *Finch*.

'The Earl of *Holland* joined in sentence with my Lord *Finch* for '*Osbaldston*, and with my Lord *Bramstone* for the Bishop of *Lincoln*.

The Lord Keeper *his Speech.*

My Lords,

'IF I be not mistaken, it is mispending of time in opening the 'Cause, therefore I shall use as much brevity as may be.

'And, first, I shall begin with the first Letter, and think it fit that 'this Letter, and all the Copies thereof, should be suppressed.

'Yet I may make this use of it, That *Osbaldston* and my Lord Bi-'shop had a long time continued intercourse of writing scandalous 'Letters, and false News.

'Again, I make this use of it, That my Lord of *Lincoln* having 'received such a Letter so scandalous against the King and State, did 'conceal the same.

'My Lords, For the Letter of the 9*th* of *January*, my Lord Bishop of '*Lincoln* doth deny that he received it; and therefore I think that he 'conceived it to be a scandalous Letter, which made him to deny it.

'Again, He kept the Letters by him, that he might have the words 'ready to tell unto every one at his pleasure.

'And as for the Letter of the 30*th* of *January*, he denieth to make 'a perfect answer to it.

'It was the saying of one that was late Lord *Chancellor*, That *he* '*never liked a Cause, where there were divers Answers in it*; neither can 'I like this, when my Lord Bishop of *Lincoln* hath bin so often exa-'mined, and will not make a perfect Answer, for he hath thrice bin ex-'amined upon this Letter, which is a shrewd Argument unto me, 'that he knew well that there was scandalous Matter contained in it.

'Next, my Lords, is the publishing of these libellous Letters, and 'I think it very fit that my Lord of *Lincoln* should be charged with 'the publishing of them. If they were in the Band-Box, then that 'was a publishing of them; and he delivered a Letter to his Secreta-'ry, which was a publishing thereof.

'But it's true, If a Man deliver a Letter to his Secretary, and com-'mand that he should keep it secret, I conceive that is not a publishing 'of it.

'If

14 *Caroli.*

'If there were no other proof but this, I ſhould think my Lord Biſhop of *Lincoln* and Mr. *Osbaldſton* to be guilty, not only of contriving, but alſo of publiſhing and divulging ſcandalous Libels againſt the Lord Arch-Biſhop of *Canterbury*, and the State.

'As for Witneſſes, although there is no need, (for it is plain without Witneſſes) yet there be divers Witneſſes that prove it.

'Now it remains that I ſhould proceed to Cenſure.

'It concerns the late Lord *Treaſurer*, one of his Majeſty's Privy-Council, and my Lord Arch-Biſhop of *Canterbury*, two Honourable Perſons: And my Lord Arch-Biſhop had not only bin a Friend to the Biſhop of *Lincoln*, but a faithful Mediator for him to his Majeſty, and was always very faithful in returning his Majeſty's Anſwer unto him; and yet notwithſtanding all this, my Lord of *Lincoln* hath done many heinous Offences againſt the ſaid Arch-Biſhop of *Canterbury*.

'For *Osbaldſton* his Cenſure, I agree with my Lord *Finch*, and do add thereunto, confeſſion of the Offence, and Submiſſion.

'And for my Lord Biſhop of *Lincoln*, I agree with my Lord *Bramſtone*.

The Sentence of the Court was,

'THat Mr. *Osbaldſton* ſhould be fined *five thouſand pounds* to the King, and pay *five thouſand pounds* Dammages to the Arch-Biſhop; be deprived of all Spiritual Dignities and Promotions; impriſoned during the King's Pleaſure, and make Submiſſion.

'That the Biſhop of *Lincoln* be fined in *five thouſand pounds* to the King, and *three thouſand pounds* to the Arch-Biſhop; to be impriſoned during the King's Pleaſure, and to make Submiſſion.

'And *Osbaldſton* was ſentenced to ſtand in the Pillory in the *Deans-Yard*, before his own School, and his Ears to be only nailed to the Pillory.

It ſo hapned, though the report was that *Osbaldſton* was run away, that he was in Court ſtanding in the Croud at the Cenſure; and when he heard the ſaid Cenſure of ſome of the Lords, he gueſſed the Cauſe would go againſt him, and knowing the rule of the Court, That if the Warden ſhould eſpie him in Court, he might command his Tipſtaff to apprehend him; as ſoon as the major part of the Court had paſt Cenſure upon him, although the Lord *Keeper* had not then given his ſenſe; therefore he got out of Court, went to his Study at the School, burnt ſome Papers, and writ on a Paper, which he left on his Desk, That *if the Arch-Biſhop inquire after me, tell him, I am gone beyond* Canterbury. Whereupon Meſſengers were ſent to the Port-Towns to apprehend him; but he lay hid in a private Houſe in *Drury-Lane*, till the Parliament met in *November* 1640.

An. 1638.

Carolus Rex.

Right trusty and well-beloved Cousins and Counsellors, We greet you well.

A Copy of the King's Letter to the Nobility, &c.

THe late Disorders in Our Realm of Scotland, begun upon pretence of Religion, but have bin raised by Factious Spirits, and fomented by some few ill, treacherous-affected Persons, whose aim hath bin, by troubling the Peace of that Our Kingdom, to work their own particular Ends, and indeed to shake off all Monarchical Government; although We often assure them, that We resolve to maintain constantly their Religion established by the Laws of that Kingdom; is now grown to so high and dangerous Consequence, that under their sinister Pretences, they have so far seduced many of Our People there, that great and considerable Forces are raised and assembled in such sort, as We have reason to take into Our consideration, the Defence and Safety of this Our Kingdom of England: And therefore upon due and mature consultation with the Lords of Our Privy-Council, We have resolved to repair, in Our Roial Person, to the Northern Parts of this Our Kingdom, there, by the help of Almighty God, and the assistance of Our loving Subjects, to make Resistance against any Invasion that may happen. And to the end that this with expedition may be effected as We desire, to the Glory of God, and the Safety of Us and this our Kingdom of England, We have directed, that a considerable Army, both of Horse and Foot, shall forthwith be levied out of all the Shires of this Our Kingdom, to attend Us in this Action; wherein We nothing doubt, but that the Affection, Courage, and Fidelity of Our People will appear. We in the mean time have thought fit to give you notice of this Our Resolution, and of the State of these Affairs: And withal hereby do require you to attend Our Roial Person and Standard at Our City of York, the first day of April next ensuing, with such Equipage, and such Forces, as your Birth, Honour, and Interest in the Commonalty doth oblige you to, &c. And We do, and have reason to expect from you a performance hereof; and these Our Letters shall be as sufficient and effectual a Warrant and Discharge unto you, to put your self, and such as shall attend you into Arms and Order as aforesaid, as if you were authorized thereunto under Our Great Seal of England. And We do hereby require you to certify under your Hands, within fifteen days after the receipt hereof, what Assistance We shall expect from you herein, and to direct the same to one of Our Principal Secretaries of State.

Given under Our Signet, at Our Palace of Westminster, the 15th day of February, in the 14th Year of Our Reign.

Whilst the King was gone towards the North, the Clergy went on briskly with their Contribution to the War against the *Scots*, as by a particular Account following will appear.

The

14 *Caroli.*

	l.	*s.*	*d.*
THe Contribution of the Clergy in the Dioceſs of *Canterbury*, as appears by Mr. *Will. Cranmer's* Account, *An.* 1639. amounted to	534	05	03
Of the Dean & Prebends of the Cathed. of *Canterbury*	300	00	00
Bangor Dioceſs	192	08	08
Briſtol Dioceſs	714	11	08
Chicheſter Dioceſs	985	16	00
Ely Dioceſs	764	08	00
Gloceſter Dioceſs	566	07	05
Hereford Dioceſs	662	01	03
Lincoln Dioceſs in *Bedford*	315	19	06
In the Arch-Deaconry of St. *Albans* in *Hertfordſhire*	72	12	04
In the Arch-Deaconry of *Huntington*	209	14	06
Norwich Dioceſs, in the Arch-Deaconry of *Norwich* and *Norfolk*	1094	16	08
In the Arch-Deaconry of *Suffolk* and *Sudbury*	921	19	09
Wincheſter Dioceſs	1305	05	08
Worceſter Dioceſs	624	19	07
The Dean and Chapiter of *Windſor*	200	00	00

What was contributed in other Dioceſſes, we want a perfect account thereof; but in all theſe forementioned, every particular Clergy-Man's Contribution is ſpecified by Name; and the Names of thoſe who refuſed, or were unable to contribute, were ſpecially certified, and returned to the Arch-Biſhop.

The Contribution of the Doctors of the Civil Law, at *Doctors-Commons*, as appears by ſeveral Notes under Sir *John Lamb's* own Hand, found among his Writings, amount to 671 *l.* 13 *s.* 4 *d.* paid in.

How ready ſuch of the Clergy were, as inclined to contribute to this War, will evidently appear by this Letter of Dr. *John Pocklington*, (who wrote *Sunday no Sabbath*) to Sir *John Lamb.*

SIR,

ON Thurſday *and* Friday *laſt, the Clergie met at* Bedford, *before Mr.* Commiſſary, *Mr.* Thorne, *and my Self. We found them willing to contribute as much as was propounded. The pooreſt that gave any thing at all, gave no leſs than* 3 s. 10 d. *in the pound, without deducting of Tenths; the moſt gave after* 4 s. *ſome* 5 s. *ſome after* 6 s. *in the pound. Much of the Mony is paid in, and I ſuppoſe it will be all in Mr.* Commiſſary's *Hands by the* 26*th of this Month, the day appointed for the paiment. I doubt not but the Clergie of* England *will teach the Miniſters of* Scotland *Duty and Obedience; and if their Laity will be taught the like by Ours, his Majeſty I hope will have a Roial and Joiful Progreſs into* Scotland; *which God grant.*

At this Meeting, I underſtand that Dr. Micklethwait *is the Man in nomination for* Sandy; *he is my old Acquaintance, and very good Friend, whom I love with all my heart, for I take him to be a right Man for the Church; and if it might pleaſe God that he might be better accommodated nearer his own Means, I think we ſhould mutually rejoice.*

No

An. 1638.

No Parſonage of England *could fit me better than* Sandy; *it is of good value, it would draw me out of that Corner, where my ſtirring for Church-Rights makes me leſs acceptable with ſome great Hands.*

As the Clergy of the Church of *England* did liberally contribute to aſſiſt his Majeſty with a ſupply of Mony againſt the *Scots*, ſo the Subjects of *England*, of the *Romiſh* Religion, were not wanting to follow that Example; nor the Queen in countenancing the ſame, as by the Papers following will appear.

The Queen's Letter for the leavying of Mony againſt the *Scots*.

Heneritta Maria R.

WE have ſo good a belief in the Loialty and Affection of his Majeſty's Catholick Subjects, as we doubt not but upon this Occaſion, that hath called his Majeſty into the Northern Parts, for the Defence of his Honour and Dominions, they will expreſs themſelves ſo affected, as we have always repreſented them to his Majeſty. So in this common conſent which hath appeared in the Nobility, Judges, Gentry, and others, to forward his Majeſty's Service by their Perſons and States; we have made no difficulty to anſwer for the ſame correſpondency in his Catholick Subjects, as Catholicks: Notwithſtanding they all have already concurred to this his Majeſty's Service, according to the Qualities whereof they are, when others of the ſame Quality were called upon: For we believe that it became us, who have bin ſo often intereſted in the Solicitation of their Benefits, to ſhew our ſelves now in the perſuaſion of their Gratitudes. Therefore having already, by his Majeſty and by other means, recommended to them this earneſt deſire of Ours, to aſſiſt and ſerve his Majeſty by ſome conſiderable ſum of Mony freely and chearfully preſented: We have thought fit (to the end that this our deſire may be the more publick, and the more authorized) hereby to give you Commiſſion and Direction, to diſtribute Copies under your hand of this Teſtification thereof, unto thoſe that have met in London by our Direction about this Buſineſs, and unto the ſeveral Collectors of every County. And as we preſume the ſum they will raiſe, will not be unworthy our preſenting to the King; ſo ſhall we be very ſenſible of it, as a particular reſpect to our ſelves, and will endeavour, in the moſt efficacious manner as we can, to improve the Merit of it, and to remove any apprehenſion of Prejudice, that any (who ſhall employ themſelves towards the Succeſs of this Buſineſs) may conceive by this, and be aſſured, That we will ſecure them from all ſuch objected Inconveniencies. And we are very confident, that this our firſt Recommendation will be ſo complied withal, as may not only afford us particular ſatisfaction, but alſo facilitation towards their own Advantages.

At this juncture of time, when theſe Contributions were ſet on foot to raiſe Monies to ſupply the King againſt the *Scots*; there was delivered to the hands of the Author of theſe *Collections*, by one Mr. *Audly*, ſince deceaſed, a Copy of a Paper which he ſaid he had from

from a *Romiſh* Recuſant, averring it to be ſent from the Pope to his Nuncio in *England*, which in regard it relates to the Scotiſh Affairs, (though we have no other Voucher for the ſame) yet we thought fit to communicate a Copy thereof to the Reader, which followeth in theſe words. 14 *Caroli.*

A Letter from the Pope to his *Nuncio* in *England*, at the beginning of the War with *Scotland*, but badly tranſlated.

YOu are to command the Catholicks of England in general, That they ſuddenly deſiſt from making ſuch offers of Men towards this Northern Expedition as we hear they have done, little to the advantage of their Diſcretion: And likewiſe it is requiſite, conſidering the penalty already impoſed, that they be not too forward with Money, more than what Law and Duty enjoins them to pay, without any Innovation at all, or view of making themſelves rather weaker Pillars of the Kingdom than they were before.

Inform the Provincials of every Order, that it is expreſly prohibited, no more Aſſemblies (of what nature ſoever) ſhall admit of the Laity to have either Voice or Seſſion in it, being what will be urged for a Precedent, is but only an Uſurpation.

Declare unto the beſt of the Peers and Gentlemen, by word of Mouth or Letter, That they ought not to expreſs any averſeneſs, in caſe the High Court of Parliament be called; nor ſhew any diſcontent at the Acts which do not point-blanck aim at Religion, being in general the moſt Fundamental Law of that Kingdom.

Adviſe the Clergy to deſiſt from that fooliſh, nay rather illiterate and childiſh cuſtom of Diſtinction in the Proteſtant and Puritan Doctrine. And eſpecially this Error is ſo much the greater, when they undertake to prove that Proteſtantiſm is a degree nearer the Catholick Faith than the other; For ſince both of them be without the verge of the Church, it's needleſs Hypocriſy to ſpeak of it, yea, it begets more malice than its worth.

That the Provincials are herein required to give a general warning through all Orders, That no Religious Perſon ought to be ſeduced (by any Noble Men, either Officers of the Crown, or the like, who pretend to be Eciſmatick) into a Premunire. For he that dares not follow the Truth as his Conſcience directs him, is not worthy to be ſought or followed by any of our Faith. But on the other ſide we give the like command, That whoſoever is thought enclining to God in his heart, let no Man be ſo raſh to boaſt and ſpeak it abroad.

All buſy Enquiries are forbidden, but eſpecially into Arcanaes of State.

That none of the Church, whether Lay-Brother or Eccleſiaſtick, contribute ſo largely as they have done to the Society, but diſpoſe their Charity, that every Order may partake alike.

An. 1638.

A Copy of the Letter ſent by thoſe aſſembled in *London*, where the Pope's *Nuncio* ſat as Chief, to them of the *Romiſh* Religion in every Shire.

Concerning the Pope's *Nuncio*.

THe incloſed Advices and Motives being ſo ample, (as you will perceive by peruſing them) it will not be needful that we enlarge our ſelves upon any Particulars concerning the conduct of the Buſineſs which they direct the way in. This therefore ſerveth only to convey them to you, (as we are entreated by thoſe that have met here, and have undertaken to do it) and deſire you to repair immediately unto thoſe Perſons to whom they be directed, and to deliver the ſame unto them in the Name of all the Noble-Men and Gentry (together with our Selves) aſſembled here at London, *by the Queen's Commandment, to ſet forward this Work. And we pray you aſſure them, in the moſt efficacious manner you can, (engaging all our Credits for truſt thereof) That it is the Sence of us all, both Eccleſiaſtical and Lay Perſons, that by the diſcharging of their and our Duties to God and the King; it mainly importeth the good of Catholicks to have their Buſineſs take good ſucceſs. Therefore entreat them to deal actively, and efficaciouſly, and ſpeedily, according to theſe Advices and Motives. We are ſo well perſwaded of their Devotion to put forwards ſo pious a Work, that we doubt not but they will be as well ſatisfied in the needfulneſs of the thing, and be as ready to employ themſelves in it, (receiving the Aſſurance thereof, and Perſuaſions thereunto, only from our hands) as if they came by all the moſt formal ways that can be imagined; which, in a buſineſs of this nature cannot be expected. And although the Advices and Motives be directed only to Lay-Gentlemen; yet we deſire you (and have anſwered for you) that you will employ your ſelves, and all thoſe that depend on you, ſincerely to ſolicit and diſpoſe all their minds that you have relation unto, as powerfully as you can, to contribute chearfully and bountifully upon this Occaſion; which is the firſt that ever we laboured in of this kind, ſo we hope in God it will be the laſt, there being no probability of ſo preſſing and urgent a nececeſſity to occur any more.*

Yours, &c.

Sir Kenelme Digby, *and Mr.* Mountague's *Letter, concerning the Contribution againſt the* Scots, *by the King's Subjects of the* Romiſh *Religion.*

April.

IT is ſufficiently already known to every one, the extraordinary Graces and Protections we owe the Queen's Majeſty, to whoſe favourable Interceſſion we muſt aſcribe the happy Moderation we live under; ſo as we doubt not but an occaſion of the expreſſion of our Gratitudes will joifully be embraced by every Body, which the preſent eſtate of his Majeſty's Affairs doth now offer us. We have already, by our former Letters, endeavoured to prepare you to a chearful Aſſiſtance of his Majeſty, in his declared Journey to the Northern Parts, for the ſecuring of his Kingdom, and ſuch other Purpoſes as his Roial Wiſdom ſhall reſolve of; that ſo you may really demonſtrate your ſelves as good Subjects as God and Nature requires of you. Now her Majeſty hath bin graciouſly pleaſed to recommend unto us the Expreſſions of our Duties and Zeal to his Majeſty's

Service,

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Service, by ſome conſiderable Gift from the Catholicks. And to remove all Scruples, (that even well-affected Perſons may meet with) ſhe undertakes to ſecure us, and all that ſhall employ themſelves in this Buſineſs, from any inconvenience that may be ſuſpected, by their or our forwardneſs and declaration in this kind; it will eaſily appear to every Body how much it imports us, in our ſenſe of his Majeſty's Deſires, to preſs every Body to ſtrain himſelf, even to his beſt Abilities, in this Propoſition, ſince by it we ſhall certainly preſerve her graciouſneſs to us, and give good Characters of our Devotion to the King and State; of whoſe benignity we have all reaſon to give Teſtimonies, and to endeavour to produce Arguments for the proſecution and encreaſe of it.

Now for the beſt expedition of this Buſineſs, (which is the chief Circumſtance that importeth in it) we have thought fit to recommend it to your nominations of ſuch Perſons as ſhall in your Opinions be agreed, for the ableſt and beſt diſpoſed in every ſeveral County, not only to ſollicit, but to collect ſuch voluntary Contributions, as every Bodies Conſcience and Duty ſhall proffer. And we ſhall deſire you to give us an account of what acceptation it receives from Friends, which we cannot but expect very ſucceſsful, and anſwerable to the forwardneſs we meet with here about London; *for which we ſhall offer up our Prayer to God.*

Wal. Mountague.

Ke. Digby.

We crave leave a little to digreſs in point of Time, and to inſert ſomething pertinent to what is before mentioned to be written by the Queen's Majeſty, to the King's Subjects of the *Romiſh* Religion, to encourage them to contribute Mony for the Service of the King againſt the *Scots*; for that when the Parliament met, *Novemb.* 3. 1640. her Majeſty underſtanding that the Parliament did take it ill for writing in that manner, and for that end mentioned in her Letter, did ſend a Meſſage to the *Houſe of Commons* by the *Comptroler*, which he delivered in theſe words.

'THat her Majeſty has bin ready to uſe her beſt endeavours for the removing of all miſunderſtanding between the King and Kingdom.

'That at the requeſt of the Lords, who petitioned the King for a Parliament, her Majeſty at that time writ effectually to the King, and ſent a Gentleman expreſly to perſwade the King to the holding of a Parliament.

'That ſhe hath ſince bin moſt willing to do all good Offices between the King and the People, which is not unknown to divers of the Lords, and ſo ſhall ever continue to do, as judging it the only way of happineſs to the King, her Self, and Kingdom.

'That all things be juſtly ſetled between the King and his People; and all Cauſes of miſunderſtanding taken away and removed.

'That her Majeſty having taken into conſideration, that one being ſent to her from the Pope, is diſtaſtful to the Kingdom, ſhe is deſirous to give ſatisfaction to the Parliament within convenient time, and will remove him out of the Kingdom.

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'That underſtanding likewiſe, that exception hath bin taken at the 'great reſort to her Chappel at *Denmark-Houſe*, ſhe will be careful not 'to exceed that which is convenient and neceſſary for the exerciſe of 'her Religion.

'She further taketh notice, That the Parliament is not ſatisfied 'with the manner of raiſing Mony for the Aſſiſtance of the King in 'his Journey to the North, in the Year 1639, at her entreaty from 'the Catholicks; ſhe ſays, That ſhe was moved thereunto, meerly 'out of her dear and tender affection to the King, and the Example 'of other his Majeſty's Subjects, ſhe ſeeing the like forwardneſs in 'others for the Aſſiſtance of the King.

'If any thing be illegal, ſhe was ignorant of the Law, and was 'carried therein only out of a great deſire to be aſſiſting to the King 'in ſo preſſing an Occaſion; but promiſeth to be more cautious here-'after, and not to do any thing but what may ſtand with the eſtabliſh-'ed Laws of the Kingdom.

'Her Majeſty being deſirous to employ her own Power to unite 'the King and People, deſireth the Parliament to look forwards, and 'paſs by ſuch Miſtakes and Errors of her Servants as they may be guilty 'of formerly; and this your reſpect ſhe promiſeth, ſhall be repaied 'with all good Offices ſhe can do to the *Houſe*, which you will find 'with real Effects as often as there ſhall be occaſion.

The Names of the Collectors for gathering the Recuſants *Mony, to maintain a War againſt the* Scots.

Bedfordſhire.

MAſter *Church*, Sir *Robert Charnock*, Mr. *Robert Hewet*.

Barkſhire.

Mr. *Anthony Ingleſfield*, Mr. *Tirrel*.

Bucks.

Mr. *Robert Dormer*, Sir *Edward Manſfield*, Mr. *Throgmorton*, Maſter *Bringhurſt*.

Cambridgſhire.

Mr. *Henry Huddleſton*, Mr. *Charles Paryet*, Mr. *Barker*.

Cheſhire.

Mr. *Bidulph* of *Bidulph*, Sir *William Maſſey*, Mr. *William Stanley*, Mr. *James Pool*.

Cornwal.

Mr. *Victor*, Mr. *Burlacey*, Mr. *Trevelion*.

Cumberland.

Sir *Francis Howard*, Mr. *Joſeph Porter*.

Darbyſhire.

Sir *Francis Willoughby*, Mr. *Avery* of *Haſſop*, Mr. *Pool*. of *Spinckill*.

Devonſhire.

Sir *Edward Carey*, Mr. *Berry*, Mr. *Anthony Gifford*, Dr. *Chicheſter*.

Doſetſhire.

Mr. *George Penny* the Elder, Mr. *George Arundel*, Mr. *Web* of *Lanford*, Mr. *Wells* of *Purbeck*.

Durham.

Sir *Ralph Conniers*, Mr. *George Collingwood*, Mr. *Edward Smith*.

Eſſex.

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Eſſex.

Mr. *William Peters*, Mr. *Thomas Wright*, Mr. *Richard White*.

Glocesterſhire.

Sir *John Winter*, Mr. *Wakeman*, Mr. *Benedict Hall*, Mr. *Atkinſon*.

Hertfordſhire.

Huntingdonſhire.

Mr. *Price* of *Waſhingley*, Sir *Thomas Shirley*, Mr. *Thomas Cotton*.

Herefordſhire.

Mr. *William Bodenham*, Sir *John Wigmore*, Mr. *William Moor* of *Burrop*, Mr. *John Harp*.

Hampſhire.

Mr. *John Arundel*, Mr. *George Penny* the Younger, Mr. *Will. Owen*.

Kent.

Mr. *Benjamin Wyborne*, Mr. *Clement Finch*, Mr. *Pettite*.

Lancaſhire.

Mr. *Bradſhaw*, Sir *Cecil Crayford*, Sir *William Gerrard*, Mr. *Molineaux* of the *Wood*, Mr. *Townley* of *Townley*, *Anderton* of *Loſtock*.

Leiceſterſhire.

Sir *Francis Engleſield*, Mr. *Golding*.

Lincolnſhire.

Mr. *Anthony Monnſon*, Sir *John Thimbleby*, Mr. *Robert Conſtable*.

London and Middleſex.

Mr. *Cape*, Mr. *Rox*, Mr. *Becket*, Mr. *Richard Bethem*, Mr. *Edward Harp*, Mr. *Morgan*, Mr. *John Chapperley*, Dr. *Kirton*.

Norfolk.

Mr. *Everrard*, Mr. *Charles Walgrave*, Sir *Henry Beddingfield*, Maſter *William Paſton*.

Northamptonſhire.

Sir *William Saunders*, Mr. *John Poulton*.

Nottinghamſhire.

Mr. *Thomas Smith* the Elder, Mr. *Thomas Smith* the Younger.

Northumberland.

Sir *William Fenwick*, Mr. *Haggerſton*, Mr. *Withrington*, Sir *Edward Ratcliff*.

Oxfordſhire.

Sir *Richard Farmer* of *Kiddington*, Mr. *William Stone*, Mr. *Ralph Sheldon*.

Rutlandſhire.

Mr. *Nicholas Cripps*, Mr. *William Andrews*, Mr. *Alcock*, Mr. *James Digby*.

Shropſhire.

Sir *Baſil Brook*, Mr. *Plowden*, Mr. *John Harrington*.

Somerſetſhire.

Mr. *Raine*, Mr. *John Ewins* the Elder.

Staffordſhire.

Mr. *Brook* of *Lapley*, Mr. *Stamford* of *Perry-Hall*, Mr. *Philip Draycot*.

Surrey.

Mr. *Edward Cotton*, Sir *Richard Weſton*.

Suſſex.

Sir *John Shelley*, Sir *John Carrol*.

Suffolk.

Sir *Francis Mannock*, Sir *Roger Martin*, Sir *Edward Sylyard*, Maſter *Thomas Bedingfield* of *Bedingfield*.

Warwick-

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Warwickshire.

Mr. *Anthony Dormer*, Mr. *Thomas Morgan*, Mr. *William Shelden*, Mr. *Richard Middlemore*.

Wiltshire.

Mr. *William Arundel*, the Lord *Baltimore*, Mr. *Edward Stilling*.

Worcestershire.

Mr. *William Abingdon*, Mr. *William Shelden*.

Westmoreland.

Mr. *Anthony Ducket*, Mr. *John Leyborne*, Mr. *Fleming*.

Yorkshire.

East-Riding, The Lord *Dunbar*, Mr. *Brigham*, Mr. *Langdail*.

West-Riding, Baronet *Vavasar*, Baronet *Gascoin*, Mr. *Thomas Waterton*, Mr. *Philip Hungate*.

North-Riding, Mr. *Craythorn* the Younger, the Lord *Fairfax* of *Gilling*, Mr. *Anthony Mennell*, Mr. *Lawrence Saire*.

Isle of Wight.	
Angleſey.	
Brecknock.	Mr. *Winter*, Mr. *Bevan*, Mr. *Maddock*.
Carnarvon.	Mr. *Lewis*.
Caermarden.	Mr. *Towley*.
Cardigan.	—*Lewis*.
Clamorgan.	Mr. *Turbervile* the Younger.
Denbigh.	Mr. *Richard Floyd*, Mr. *Crew*.
Flintſhire.	Sir *John Connoway*, Mr. *Pennal*.
Monmouth.	Sir *Charles Somerſet*, Mr. *Morgan* of *Lantarnam*, Mr. *Morgan* of *Itton*.
Montgomery.	Sir *Percy Herbert*.
Merioneth.	
Pembrookſhire.	Mr. *Towneley* of *Arnoſtill*.
Radnorſhire.	*Thomas Crowther*.

A Note of thoſe Shires which are deſigned to ſet forth *Foot* and *Horſe* for his Majeſty's Service againſt the *Scots*.

	Foot.	Horſe.		Foot.	Horſe.
Kent	1200	150	Devon	2000	60
Cornwal	1500	000	Eſſex	1500	125
Somerſet	1200	150	Glocester	1000	100
Wilts	700	78	Warwick	300	44
Bedford	200	40	Hartford	500	40
Berks	400	44	Norfolk	1800	200
Middleſex	750	40	Northampton	700	150
Buckingham	300	40	Southampton	1000	85
Oxon	300	40	Surrey	500	65
Cambridg	400	40	Suſſex	640	80
Suffolk	1500	50	London	3000	000
Doſet	700	50			

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	Foot.	Horſe.
Flint	60	25
Angleſey	100	22
Brecknock	100	17
Cardigan	50	17
Carmarthen	100	17
Caernarven	500	12
Denbigh	250	25
Glamorgan	† 1000	100
Monmouth	500	56
Pembrook	150	50
Montgomery	100	100
Radnor	50	50
Hereford	150	40
Shropſhire	300	35
Worceſter	300	35
Merioneth	150	23
Briſtol	50	000

† If not a miſtake.

The ſum of Foot — 23670
The ſum of Horſe — 2366

A true Liſt of the number of *Horſe*, *Pikemen*, and *Muſquetiers*, *Dragoons* and *Curaſiers*, ſet out for this preſent Service for *Scotland*, at the Charge of theſe Counties and Shires following.

Cumberland	125 Pikes.	125 Muſq.	50 Dragoons.
Northumberland	250 Pikes.	250 Muſq.	100 Drag.
Weſtmerland	125 Pikes.	125 Muſq.	50 Drag.
Newcaſtle	250 Pikes.	250 Muſq.	350 Drag.
York	6720 Muſq.	5521 Pikes.	60 Horſe.
Dureſme	532 Muſq.	500 Pikes.	
Lancaſhire	420 Muſq.	180 Pikes.	50 Drag.
Northumberland	282 Muſq.	125 Pikes.	
Cheſhire	356 Muſq.	244 Pikes.	50 Car.
Stafford	248 Muſq.	152 Pikes.	30 Horſe.
Derby	239 Muſq.	161 Pikes.	74 Horſe.
Lincoln	1080 Muſq.	720 Pikes.	230 Car.
Leiceſter	290 Muſq.	110 Pikes.	38 Horſe.
Rutland	60 Muſq.	40 Pikes.	30 Horſe.

Weſtmerland, *Cumberland*, *Northumberland*, and the Town of *Newcaſtle*, are not to March into the Field but upon ſpecial Direction.

The Total of all the Foot in the ten Counties — 19483
The Total of all the Horſe — 1233

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A List of *Horses* and *Carters* to be sent out of divers Counties, for Carriage of the Train of Artillery, &c.

	Horses.	Carters.		Horses.	Carters.
Bedford	50	17	Middlesex	30	10
Berks	30	10	Norfolk	60	20
Buckingham	50	17	Northampton	70	23
Cambridg	50	17	Nottingham	50	17
Derby	60	20	Oxon	40	13
Dorset	20	07	Rutland	20	07
Essex	60	20	Salop	40	13
Gloucester	50	17	Somerset	20	07
Hertford	50	17	Southampton	50	17
Hereford	30	10	Stafford	50	17
Huntington	50	17	Suffolk	60	20
Kent	20	07	Warwick	60	20
Leicester	70	23	Worcester	50	17
Lancaster	50	17	Wilts	50	17
Lincoln	60	20			

Total of Horses 1350

A List of his Majesty's Navy, with the Names of Ships for this Summer, 1639.

	The Captains.	
The *Rainbow*	Sir *John Pennington.*	
The *Vantguard*	Capt.	*Povey.*
The *Victory*	Capt.	*Minns.*
The *Unicorn*	Capt.	*Murrey.*
The *James*	Capt.	*Figg.*
The *Leopard*	Capt.	*Cartwright.*
The *Antelope*	Capt.	*Stradling.*
The *Bonaventure*	Capt.	*Feilding.*
The *Dreadnought*	Capt.	*Kirk.*
The *Mary-Rose*	Capt.	*Hall.*
The *Expedition*	Capt.	*Shurgsby.*
The *Providence*	Capt.	*Flemmin.*
The *second Whelp*	Capt.	*Barlow.*
The *eighth Whelp*	Capt.	*Fox.*
The *Roebuck*	Capt.	*Wolward.*
The *City Ship*	Capt.	*Popham.*

At

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At Whitehall, *Febr.* 1638.

A Letter to the Lord Arch-Biſhop of *Canterbury* his Grace, touching Clergy-men, *Defaulters at Muſters* in the County of *Devon.*

WHereas the Deputy Lieutenant of the County of Devon, *returned a Certificate to the Earl of* Bedford, *Lord Lieutenant of that County, and his Lordſhip to the Board, of divers Defaulters in Arms in the ſaid County. And namely among others,* Mr. Pyne *Clerk of* Beerforris, Mr. Burnal *Parſon of* Highbickington, Mr. Strode *Rector of* Dittiſham, *and the Parſon of* Woulſworth, Puddington, Waſhford, Eaſt-Buckland, Bondly, Cleveborough, *and* Bittadon, *for their Spiritual Livings; which ill Example of theirs, may prove very prejudical to his Majeſty's Service. We have therefore thought good hereby, to pray your Grace to ſend to the Lord Biſhop of that Dioceſs concerning the ſame; that his Lordſhip calling the Parties aforeſaid before him, may give effectual directions to them to conform themſelves, and forthwith provide ſuch Arms as by the Biſhop of that Dioceſs have bin, or ſhall be ſet upon them; which if they or any of them ſhall refuſe to do, in convenient time, after notice given them, then his Lordſhip is to require them, ſo refuſing, to give their perſonal attendance upon the Board ſome day in* Eaſter-*Tearm next; And ſo,* &c.

At *Whitehall, Feb.* 16. 1638.

A Letter directed to the Earl of *Newport,* Maſter of the Ordnance.

WHereas Sir Jacob Aſhley *hath advertiſed, that it is requiſite there ſhould be ſent to* Hull *a proportion of Arms for Curaſſiers, and a good number of Partiſans and Halberts, which together with ſome other Arms, both for Horſe and Foot, he deſires may (as he ſhall ſee cauſe to direct) be by Captain* Legg, *or ſuch other as ſhall have charge thereof at* Hull, *ſent thence to* York, *to be there ſold to ſuch Perſons of that County as ſhall deſire to buy the ſame for their uſe. We have therefore thought good hereby to pray and require your Lordſhips forthwith not only to ſend to* Hull 200 *Curaſſiers,* 100 *Partiſans, and* 200 *Halberts, but alſo to give Order and Warrant to Captain* Legg, *and ſuch other as have or ſhall have charge of his Majeſty's Arms and Munition which are at* Hull, *or ſhall be ſent thither, to ſend from time to time to* York, *or elſewhere thereabouts, ſuch Arms and Munition, either for Horſe or Foot, as Sir* Jacob Aſhley *ſhall under his Hand direct, and to deliver the ſame into the Hands and Charge of ſuch Perſons as the Vice-Preſident of* York *ſhall appoint to receive, ſell, and deliver the ſame for the uſe of the Country; for which this ſhall be your Lordſhips Warrant. And ſo praying your Lordſhip to give a ſpeedy Order herein accordingly, we bid,* &c.

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February 27.

The King's Majesty caused a Proclamation and Declaration to be published, to inform his Loving Subjects of his Kingdom of *England*, of the seditious Practices of some in *Scotland*, seeking to overthrow his Regal Power, under false pretence of *Religion*.

RECiting, That whereas We have endeavoured now, for a long time together, by all calm and fair ways, to appease the Disorders, and tumultuous Carriages caused by some evil-affected Persons in Our Realm of Scotland, but hitherto all in vain; We have now thought it not only fit, but necessary in general, to inform all Our loving Subjects in this Our Realm of England, what the Truth is of Our Proceedings, what Our lenity and gentleness hath bin towards them, and what froward and perverse Returns they have made to Us, notwithstanding all their specious Pretences, the better to insinuate themselves and their odious Cause, into the minds of Our Loial Subjects here. These Disorders and Tumults have bin thus raised in Scotland, and fomented by factious Spirits, and those traiterously affected, began upon pretences of Religion, (the common Cloak for all Disobedience) but now it clearly appears, the aim of these Men is not Religion, as they falsly pretend and publish, but it is to shake all Monarchical Government, and to vilify Our Regal Power, justly descended upon Us over them: Nay, their Malice reaches so far, both against Our Power and Person, as that in a most cunning and subtil way they have endeavoured to poison the Hearts of Our good and loial Subjects of this Our Kingdom, and to seduce them (were it in their power) to the like Rebellious Courses with themselves. Now though we are most confident of Our Peoples Affections towards Us (of which they have given Us a clear testimony, by their ready and chearful assistance in this Cause) and have not the least thought that those turbulent Spirits shall any way prevail with them, yet We cannot but hold it requisite to give them timely notice of their traiterous Intentions, which very many ways appear unto Us.

As first, by the multitude of their printed Pamphlets, or rather indeed infamous Libels, stuffed full of Calumnies against Our Regal Authority, and Our most just Proceedings, and spreading of them in divers parts of this Our Kingdom.

Secondly, By their sending of Letters to private Persons, to incite them against Us; and sending some of their fellow-Covenanters to be at private Meetings in London and elsewhere, to pervert Our good People from their Duty; and some of these Meetings We know, and some of those Letters (lewd enough) We have seen.

Thirdly, By their publick contemning of all our just Commands, and their mutinous protesting against them, a course not fit to be endured in any well-ordered Kingdom.

Fourthly, By their rejecting of the Covenant commanded by Our Authority, because it was commanded by Us; whereas no Covenant or Band of that nature, in that Kingdom, hath ever bin, or can be

legal

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legal and warrantable, which hath not bin commanded, or at leaſt aſſented unto by Roial Authority. As for inſtance, That Covenant in Our dear Father's Time was condeſcended unto by him, and ſo the Subject (at the humble Petition of the General Aſſembly it ſelf) permitted by him to ſign it; We ſay it again, That Our Covenant was rejected by them, becauſe commanded by As; and this is manifeſt, becauſe for Matters of Religion Ours agreed in all things with their own Covenant. By which Covenant of theirs, they have treacherouſly induced many of Our People to ſwear to a Band againſt us: which Band and Covenant (or rather Conſpiracy) of theirs, could not be with God, being againſt As the Lord's Anointed over them. But it was, and is, a Band and Covenant pretended to be with God, that they may with the better countenance do the Works of the Devil, ſuch as all Treaſons and Rebellions are.

And laſtly, By their moſt hoſtile Preparations in all kinds, as if We were not their King, but their ſworn Enemy. For what can their Intentions be, being thus prepared, but to invade this Kingdom, ſhould they not find As ready, both to reſiſt their Force, and to curb their Inſolencies? For many, and ſome of the chiefeſt amongſt them, are Men, not only of unquiet Spirits, but of broken Fortunes, and would be very glad of any occaſion (eſpecially under the colour of Religion) to make them whole upon the Lands and Goods of Our Subjects in England, who We preſume (beſides their Allegiance to As) will look better to themſelves and their Eſtates, than to ſhare them with ſuch deſperate Hypocrites, who ſeek to be better and cannot well be worſe. We demand again, What Intentions elſe they can have? for We have already often aſſured them by Our publiſhed Proclamations, That We are ſo far from thinking of any Innovation or Alteration of Religion, that We are reſolved to maintain the ſame conſtantly, and as it is eſtabliſhed by Law in that Our Kingdom. Nay, ſo deſirous have We bin to give content unto them, as that We have in a manner condeſcended to all which they petitioned for: Nay, Our Princely Clemency in theſe produced no better effect, than increaſing and daring Inſolencies, to Our diſhonour both at Home and Abroad; Yet We paſſed by all, till they ſtruck at the very Root of Kingly Government, for they have now aſſumed to themſelves Regal Power. For whereas the Print is the Kings in all Kingdoms, theſe ſeditious Men have taken upon them to print what they pleaſe, though We forbid it; and to prohibit what they diſlike, though We command it; and with the greater affront, have forbid and diſmiſt the Printer whom We eſtabliſhed. Beſides, they have taken upon them to convene Our Subjects, raiſe Armies, block up and beſiege Our Caſtles; to lay Impoſitions and Taxes upon Our People, threatning ſuch as continue in Loialty to As, with Force and Violence. To this We ſhall add, That they have ſlighted the Directions and Power of Our Council-Table in that Kingdom, and have ſet up Tables of their own, at which ſome of their Leaders ſit under the Name of Committees, from the late pretended General Aſſembly, or their Deputies; and thus they meet when and where they pleaſe, Treat and Conclude what they pleaſe, and ſend their Edicts through all parts of the Kingdom without any conſent, nay, without all knowledg of As, Our Commiſſioner, or Council, and directly contrary to many ſtanding Laws at this day in force in that

An. 1638. Kingdom, and yet pretend Violation of their Laws, as one of the main Causes of their brain-sick Distempers.

Here therefore We take God and the World to Witness, We hold Our Self forced and constrained to Arm, not only to reclaim them, and to set Our Kingly Authority right again, in that Our Ancient and Native Kingdom, but also for the Safety of this Kingdom, Our Loial Subjects in it, with their Wives, Children, and Goods, as well as Our own, against the Rage and Fury of these Men and their Covenant. And this We think fit to let you further know, that We hope in Time to make the best of them see, that We will endure no such Covenant and Band in Our Kingdom to which We shall not consent. So the Question is not now, Whether a Service-Book is to be received or not? nor whether Episcopal Government shall be continued, or Presbyterial admitted? But whether We are their King or not? For though in some of their Libels they give us good words, and speak As fair for their own ends, especially in the last printed at Edinburgh, Februarii quarto 1639; yet some of them refused both the Oath of Allegiance and Supremacy, and publickly maintain, That they are not obliged to take the same. Now how can We think these Men are Dutiful and Loial in their Hearts, that broach such dangerous Opinions? or religiously minded, that teach such rebellious Doctrine, and so contrary to all, which Protestant Divines teach towards the King and the Civil Magistrate? Nay, they have infected divers of their Country-men which are come into other Parts with the same Venom; for three Scots-men taken in Wales, are at this day imprisoned, for direct denial of Our Supremacy and their Allegiance, saying, They cannot take those Oaths, because they have sworn to the Covenant. But though we have bin thus mild towards them, and continued so long, yet we would not have any of them, or any of Our other Subjects think, that we can or will permit Episcopal Government, established by many Acts of Parliament in that Our Kingdom, to be abolished, seeing it is known to the whole Christian World, that the same is most Christian in it self, and most peaceable for the Civil State, and most consonant to Monarchical Government.

And we would have Our Subjects of that Kingdom consider, what will become of the third Estate there in Parliament, if Episcopacy should be abrogated?

And further we think fit to declare unto you, and to the Christian World, That by Our intention of introducing the Service-Book into that Kingdom, we had not the least thought of Innovation of Religion in this or that, but meerly to have a conformity with that Worship of God, which is observed within both Our other Kingdoms, though ill-minded Men have wrested some things in it to a sinister sence.

We further give you to understand, That there is a large Declaration coming forth, containing all the particular Passages which have occurred in this Business, from the very beginning, attested with their own foul Acts, to disanul and shame their fair, but false words. But because this cannot so soon be made ready, we hold it most expedient to let this short Declaration forerun it, that Our loial Subjects here and else-where, may not be infected with their false, wicked, specious, but most seditious Informations: For Example-sake,

ſake, in their laſt Pamphlet (beſides divers other falſe, baſe, and fawning Paſſages) there are theſe ſcandalous and moſt notorious Untruths: As firſt, they ſay, That we have committed the Arms we now take, and the Armies we now raiſe, into the hands of profeſſed Papiſts; which is not more diſhonourable to Our ſelf, and the Noble Perſons intruſted by Us, than odiouſly and notoriouſly falſe. Again, they ſay, That ſome of Power in the Hierarchy of England, have bin the Cauſe of Our taking Arms to invade Our Native Kingdom, and of medling with their Religion: whereas it is moſt certain, that no one of them have done any thing therein, but by Our own Princely Direction and Command. And for Arms, it is notoriouſly known to all Our Council then preſent, That their counſels were for Peace, and have bin the Perſwaders (as much as in them lay) of the undeſerved Moderation wherewith we have hitherto proceeded towards ſo great Offenders.

And further they ſay, That they intend no Act of Hoſtility againſt England, unleſs they ſhall be neceſſitated in their own Defence. We would fain know, Defence of what? Is it of Diſobedience? Defence againſt whom? Is it not againſt Us their True and Lawful Soveraign? If they will defend againſt Us, it ought to be by Law, and not by Arms; that Defence we ſhall never deny them, this by Arms we ſhall never permit them. Now Our Laws which they ſeem ſo much to value, are in a manner oppreſt by them, in ſo much that Our Judges are ſo awed, as that they dare hardly proceed according to Law.

With theſe and the like mutinous Libels, we deſire our good Subjects ſhould not be infected, but that all of them might know the preſent neceſſity we have to Arm Our Self, which is for no other End, ſave only for the Safety and Security of this Our Kingdom, the re-eſtabliſhment of our Authorities in that, and the ſuppreſſing of ſuch as have miſled and abuſed Our Subjects there, and would (if not prevented) do the like here, but is no way to inforce any Innovation of Religion eſtabliſhed in that Kingdom, or any ways to infringe the Laws thereof, or any of their Liberties whatſoever, which are according to Law.

Theſe are therefore to Will and Command all Our Loving Subjects of this Our Kingdom, that they receive no more of their ſeditious Pamphlets ſent from Scotland, or any other place concerning thoſe Affairs, which can have no other uſe or influence, than to draw the Hearts of Our Loial People to the like Rebellious Courſes; and that ſuch of Our Subjects here, as have already received any of theſe Rebellious Pamphlets, do preſently deliver them to the next Juſtice of Peace, that he may ſend them to one of Our Secretaries, as both they and the Juſtices of Peace will anſwer it at their utmoſt perils.

And Our further Will and Pleaſure is, That this Our Proclamation and Declaration be read in time of Divine Service in every Church within the Kingdom, that all our People, to the meaneſt, may ſee the notorious Carriages of theſe Men, and likewiſe the Juſtice and Mercy of all Our Proceedings.

Given at Our Court at *Whitehall* the 27*th* day of *February*, in the four and twentieth Year of Our Reign, of *England*, *Scotland*, *France*, and *Ireland*.

At

An. 1638.

At *Whitehall*, March 1. 1638.

A Letter directed to the Vice-President of York, *and Council, concerning Provision to be made there.*

'AFfter, *&c.* Whereas his Majesty, by his Letters sent in *February* 'last, hath formerly required you to take order, that there be 'timely care used, not only to hinder the exportation of all sorts of 'Grain, Butter, Cheese, and other Victuals out of that County, but 'to see that there be a good quantity of those Provisions, as also of 'Hay and Straw for Horse, provided in store in several parts of that 'County for supply of his Majesty's Army, which is intended to lie 'in the Northern Parts for Defence and Preservation of the same up- 'on all occasions. And whereas for encouragement of such as should 'make any Provisions in that kind, his Majesty was pleased, by his 'said Letters, to give you Directions to assure all Men, that they shall 'be duly paid whatsoever shall be received from them.

'Forasmuch as some Persons ill-affected to his Majesty's Service and 'just Resolutions, have endeavoured (as it is informed) to put 'causless doubts into the heads of some in those parts, whereby to de- 'ter them from making any such store of Provisions as they would 'otherwise have made and reserved for that purpose. We are by 'his Majesty's express Command, hereby to require you again pub- 'lickly to declare and make known, in all fitting Places; and not on- 'ly in the County of *York*, but in all other the Northern Counties, 'to all Persons that either have in their Hands, or shall make any Provi- 'sions of Corn, Meal, Butter, Cheese, or other Victuals for Souldi- 'ers, or Hey, Oats, Pease, Beans, or Straw, for Horses, that they 'shall be duly paid whatsoever shall be received from them, according 'to the price of the Market. To the end that the Country may take 'notice, that his Majesty intends this Army for their Defence and Pre- 'servation, and not for their Prejudice, as ill-affected Persons endea- 'vour by false Tales to insinuate. Hereof his Majesty and this Board 'doth expect to receive an Accompt of your effectual Endeavours 'before the 18*th* of this present *March*; and so we bid you farewel. 'Dated the third of *March*.

Memorandum

14 *Caroli.*

Memora dum quod ſeptimo die Martii, *Anno Regni Regis* Caroli 14. *Billa iſta deliberata fuit Domino Cuſtodi Magni Sigilli* Angliæ *apud* Weſtmonaſterium *exequend.*

CHARLES by the Grace of God, of *England*, *Scotland*, *France*, and *Ireland*, King, Defender of the Faith, *&c.* To Our Right Truſty, and Right well-beloved Couſin and Counſellor, *Thomas* Earl of *Arundel* and *Surrey*, and Earl Marſhal of *England*, and Knight of the moſt Noble Order of the Garter, Greeting.

Lord Marſhals Commiſſion.

KNow ye, that we repoſing ſpecial truſt and confidence in your approved Wisdom, Fidelity, Valour and great Ability, have aſſigned, made, conſtituted, and ordained you to be the General of Our Army intended forthwith to be raiſed; and over all Our Men, which be, or ſhall be levied in all Our Counties of this Our Realm, or Dominion of Wales; and aſſembled, or to be aſſembled to any Army, or Armies, to reſiſt and withſtand all Invaſions, Tumults, Seditions, Conſpiracies, or Attempts that may happen to be made againſt Our Perſon, or State; and to Rule, Govern, Command, Diſpoſe and Employ the ſame Army, and all Officers ſo employed, or to be employed concerning the ſame, with all ſuch farther Forces, of what Nation ſoever, as ſhall be hereafter joined thereunto for their ſupply, for the accompliſhment of ſuch Executions, Defences, Offences, and other Services as are or ſhall be by Us from time to time directed, limited, and appointed, in or by ſuch private Inſtructions as are herewith delivered unto you under Our Signet Manual. And farther, we have given you full Power and Authority, That the ſame Perſons ſo levied or aſſembled, or ſo to be levied or aſſembled by you, or ſent, conducted, or brought, or that otherwiſe ſhall come to you, either by our ſeveral Orders, or by Authority of this our Commiſſion as aforeſaid, to try, array, and put in readineſs; and them, and every of them after their Abilities, Degrees, and Faculties, well and ſufficiently cauſe to be Weaponed, and Armed; and take, or cauſe to be taken, the Muſters of them, or any other our Trained Bands, which within this our Realm of England, and Dominion of Wales, from time to time, in Places moſt meet for that purpoſe, after your good Diſcretion. And alſo the ſame our Subjects ſo Arrayed, Tryed, and Armed, as well Men of Arms, as Horſe-men, Archers, and Foot-men of all kinds and degrees, meet and apt for the Wars, to Govern, Lead, and Conduct, againſt all and ſingular our Enemies attempting any thing againſt Us, Our Crown and Dignity; and Our ſaid Army to divide, diſtribute, and diſpoſe, and the ſame, or any part thereof, to convey by Land, or by Water, as occaſion ſhall require, according to your good diſcretion; and with the ſame Enemies, Rebels, and Traitors, to fight, and them to Invade, Reſiſt, Repreſs, Purſue, and follow into any Our Dominions; and them to ſubdue, and to do, fulfil and execute all, and ſingular other things which ſhall be requiſite for the Leading,

Government,

An. 1638. Government, Order, and Rule of our said Armies and Subjects, and for conservation of our Person and Peace. And farther to do, offer, and execute against the said Enemies, Rebels, Traitors, and their Adherents, and other Delinquents and Offenders, as need shall require, by your Discretion, by the Law Martial, as our General: And of such apprehended and brought into subjection, to save whom you shall think good to be saved, and to slay, destroy, and put to execution of Death, such and so many of them as you shall think meet by your discretion, to be put to death by any manner of means, to the terror of all other Offenders. And We do farther give unto you our General, full Power and Authority, for Us, and in our Name, as occasion shall require, according to your good discretion, by publick Proclamation, to make tender of our Roial Grace and Pardon, to all such Traitors, Rebels, and all other Offenders as shall submit to Us, and design to be relieved by our Mercy. And further, our Will and Pleasure is, and by these Presents We do give you full Power and Authority, that in case any Invasion of Enemies, Insurrection, Rebellion, Riots, Routs, or unlawful Assemblies, or any like Offences shall happen to be moved, That then, as often as you shall perceive any such Misdemeanours to arise, You, with all the Power you can make, shall with all diligence repair, and send convenient Forces to the Places where any such Attempt, Invasion, unlawful Assembly, Insurrection, or Rebellion shall happen to be made; and subdue, repress, and reform the same, as well by Battel, or other kind of Force, as otherwise by the Law of the Realm, or the Law Martial, according to your good discretion. And for the better execution of this our Commission, We do farther give you Power and Authority, from time to time, to command and require of all our Lieutenants special, and their Deputy Lieutenants of the several Counties of this our Realm, or Dominion of Wales, to send to you such number of Able Men for the Wars, as well Horse-men as Foot-men of the Trained-Bands, or other, sufficiently armed and furnished, to such Place and Places, and at such Time and Times, as you in your Wisdom shall appoint and require: Which said Forces you are to govern, order, and dispose, as your present Occasions shall require, for the advantage of our Service, according to your good discretion. And farther, for your better assistance in this our Service, We do hereby assign, make, constitute, and ordain, our Right Trusty, and Right Well-beloved Cousin, Robert Earl of Essex and Eme, Vicount Hereford and Bourchier, Lord Ferres of Chartley, Lord Bourchier, to be our Lieutenant General of this our Army; and our right Trusty, and right Well-beloved Cousin and Counsellor, Henry Earl of Holland, Lord Chief Justice & Justice of Eyre, of all our Forests, Chaces, Parks, and Warrens on this side Trent, first Gentleman of our Bed-Chamber, and Knight of the most noble Order of the Garter, to be our General of our Troops of Horse, to serve in Our said Army for the Execution of this our Commission, according to such Directions as from time to time you shall think fit to give unto them. And farther, We do give you Power and Authority, to appoint within our said Army, a Provost-Marshal to use and exercise that Office, in such case as you shall think fit to use the said Law Martial. And We do also give you our general full Power and Authority by these

Presents,

Presents, to Hear, Examine, and Debate, as well by your self, as by your sufficient Deputy, or Deputies, all Criminal Causes growing and arising within Our said Army, as well concerning the Death of any Person, as loss of Member; and all Causes Civil, whatsoever they be, that shall happen or chance within this Our said Army. And also We give you full Power and Authority to Make, Constitute, and ordain Ordinances and Proclamations, from time to time, as the Case shall require, for the good Government, Rule, and Order of Our said Army; and the same, and every one of them Causes, to be duly proclaimed, performed, and executed; and whomsoever you shall find contemptuous, disobedient, or disorderly in our said Army, to attach, apprehend, and imprison, and them and every of them to chastise and punish: and such as shall be imprisoned, you shall cause them to be proceeded against according to the quantity of the Offence, as well by pains of Death, as loss of Member, or otherwise, according to your discretion; and to deliver and set at liberty any Person so imprisoned, as by you shall be thought convenient. And for encouragement of fit and deserving Persons, We do give you full Power and Authority in Our absence, to reward and honour with the Order of Knighthood, and of Knights-Demerits, such as in your discretion shall deserve the same in this our present Service; and to grant and assign them Arms, and Ensigns of Arms as is need, and to the Office of a General appertaineth. And We do farther give Power and Authority to you Our General, for Causes especially moving you, by your Letters under your Seal, from time to time, when, and as often as to you shall seem meet, to grant safe Conduct, general and special, in all places, by Land or by Water, to any Persons whatsoever; and generally to do and execute all and every thing and things, which to the Office of a General of Our said Army doth belong and appertain; and which for the good and safe Government of Our Army, and Subjects, shall be thought expedient and necessary. And for the better execution of this Our Service, We do further give you Our General, full Power and Authority, as occasion shall require, to Command all Our Forts and Castles now Fortified, or hereafter to be Fortified, in or near the Parts or Places where Our said Army from time to time shall be; and to amove, displace, and continue the Captains, Lieutenants, and Souldiers and Garisons there, as cause shall require; and to furnish the same Castles and Forts with other Captains, Lieutenants, and Souldiers, as you shall think meet, for the safety and good of the Army, and the advantage of this Our Service. And We Will and Command you, Our General, that with all speed you do execute the Premises with effect. Wherefore We Will and Command all and singular Lieutenants special, Dukes, Marquesses, Earls, Vicounts, Barons, Baronets, Knights, Sheriffs, Mayors, Bailiffs, Constables, Captains, petty Captains, Souldiers, and all other Officers, Ministers, and Loving Subjects, of what Estate, Degree, or Condition soever he or they shall be; That they, and every of them, with their Power, and Servants, from time to time, be attendant, aiding and assisting, counselling, helping, and at your Commandment, at the due execution hereof, as

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they and every of them tender Our Pleasure, and will answer the contrary at their Perils. And farther, Our Pleasure is, That whatsoever you shall do by virtue of this Our Commission and Private Instructions, and according to the Tenor and Effect of the same, touching the execution of the Premises, or any part thereof, you shall be discharged in that behalf against Us, Our Heirs, Successors. Yet nevertheless Our Intent and Meaning is, That this Our present Commission, or any thing therein contained, shall not impeach or infringe the Office of Earl-Marshal of England, or any Right or Jurisdiction incident or belonging to the same. In Witness whereof We have caused these our Letters to be made Patents, and to continue during our Pleasure.

May it please your most Excellent Majesty, This containeth your Majesty's Commission to Thomas Earl of Arundel and Surrey, Earl-Marshal of England: Whereas your Majesty doth appoint him him General of your Majesty's Army; Robert Earl of Essex to be your Majesty's Lieutenant General, and Henry Earl of Holland your Majesty's General of your Troops of Horse, to serve in the Army with their sundry Powers and Jurisdictions, the said Lord General of the Army; which have bin seen and approved of by your Majesty;

And is done by Warrant under your Majesty's Signet Manual.

Jo. Banckes.

At the Court at Whitehall, *March* 8. 1638.

Nobility and Gentry to have the preemption of Horses at *Wooborn* Fair.

'WHereas divers of the Nobility and Gentry of this Kingdom, 'who are to attend and serve his Majesty in the Expedition 'now in hand, are by his Majesty's express Command, to attend with 'Horses according to their several Qualities. And whereas it is in-'formed, that divers Horse-coursers do usually either forestal the Mar-'kets, or ingross into their hands the Horses which come to Fairs and 'Markets, and thereby inhaunce the prices of Horses to unreasonable 'rates. And whereas *Wooborn* Fair, which is usually a great Horse-'Fair, falls out to be some six days hence. These are therefore to 'will and require you to have especial care, that no Horse-Courser, 'nor any for them, shall be permitted to buy any Horses within that 'Fair, or Town, and the Precincts and Liberties thereof, until the 'last day of the said Fair, to the end the Nobility and Gentry having 'the pre-emption, may by that time have furnished themselves with 'such number of Horses for his Majesty's Service, as they shall think 'fit to buy there. And lest by any practice or combination of the 'Horse-Coursers, or out of any other by-respect in the Seller, it should 'happen that Men refused to sell their Horses at reasonable and usual 'prices, you are at the beginning of the said Fair, to make known 'and publish, (and accordingly see it put in execution) that no Per-'son shall be permitted to sell any Horse, either to a Horse-Courser,

'or

'or any other imploied for them at any lower rate or price than that 'which he had bin offered by thoſe imploied as aforeſaid for his Ma- 'jeſty's Service. And theſe are further to ſignify unto you, that the 'Bearer hereof, *John Ward*, Gentleman of my Horſe, is by me pur- 'poſely ſent to ſee the due execution of theſe Directions, whom I re- 'quire you to aſſiſt in the furtherance of this Service, as you will 'anſwer the contrary at your peril. *Caroli* 14.

From *Whitehall*, March 15. 1638. Earl *Marſhal.*

At Whitehall, *March* 11. 1638.

Starch-makers Warrant.

'WHereas *Robert Smith*, *Leonard Stockdale*, *Hugh Care*, and *Na- 'thaniel Fox*, are lawfully deputed and authorized, by the 'Maſter, Wardens, and Aſſiſtants of the Company of *Starch-makers*, 'according to the Power and Authority given to the ſaid Corporation 'by his Majeſty's Letters Patents and Proclamation, to ſearch for '(with the aſſiſtance of a Conſtable, and other lawful Officers) in all 'ſuſpected Places, and to ſeize and carry away all White Starch, 'and Materials prepared for making of White Starch, as likewiſe all 'White Starch imported from Foreign Parts, contrary to the ſaid Let- 'ters Patents, and his Majeſty's Proclamation. And to break, deface, 'and deſtroy all Pans, Ciſterns, and other Veſſels imploied or ſet up 'for the making of White Starch, or Materials belonging to the mak- 'ing of White Starch, contrary to the ſaid Letters Patents, and his 'Majeſty's Proclamation. Theſe are therefore in his Majeſty's Name, 'ſtraitly to charge and command you, and every of you, when and 'as oft as need ſhall require, to help and aſſiſt to the uttermoſt of 'your Power, the ſaid *Robert Smith*, *Leonard Stockdale*, *Hugh Care*, 'and *Nathaniel Fox*, or any of them, in the ſearching for, ſeizing, 'and carrying away, to his Majeſty's uſe, of all White Starch, and 'Materials prepared for the making of White Starch. As likewiſe all 'White Starch imported from Foreign Parts; and in doing and per- 'forming every Act and other thing directed by his Majeſty's ſaid Let- 'ters Patents and Proclamation. And in like manner to aid and aſſiſt 'them, or any of them, in the breaking and forcing open the Doors 'or Houſes (when they cannot otherwiſe enter) where any prohibi- 'ted White Starch, or Materials prepared for making of White Starch 'is ſuſpected to be made or kept: And furthermore to apprehend all 'and every the wilful Offenders againſt his Majeſty's ſaid Letters Pa- 'tents and Proclamation.

This following Advertiſement was miſlaid, when it ſhould have bin inſerted in its proper Place and Time, nevertheleſs we thought fit to inſert it, becauſe it brings ſome Intelligence in reference to the Scotiſh Affairs.

Letters of Intelligence concerning the *Scots*.

After Marqueſs *Hamilton*'s arrival in *Scotland*, in the beginning of *June* this Year, as the King's High Commiſſioner, to ſettle the diſtra- cted Affairs of that Kingdom, he found (as is mentioned more fully in the Narrative we have already given of the Commotions in

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Scotland) great Oppoſition by the *Covenanters*, and more particularly by their Proteſtation againſt the King's Declaration of *June* the 28*th*, That his Majeſty will not preſs the practice of the *Service-Book*, and *Canons*, &c.

Cardinal *Richelieu*'s Chaplain in *Scotland*.

At this time the Church of *Rome* had Agents in *Scotland* as well as in *England*, one of them who ſubſcribes a Letter, probably was Cardinal *Richlieu*'s Chaplain, by name *Chambers*, or *Chamberlain*, who was then preſent in *Scotland*, blowing the Coles of Fire there kindled; which Letter concerned the Affairs of *Scotland*, and was to the effect following, dated *June* 28.

My Reverend Father,

I *Have not bin at* London *five days in all ſince I came from* France, *elſe I had not failed to ſalute your Reverence*, &c. *I know not what to ſay of* Mortimer *the Superior of* Scotland, *as knowing not whether he hath leave to go or not, nor yet their Procurer who reſides in this Court.* Scotland *is in a very ill poſture, and in evident danger to ſever it ſelf from this Crown.*

And in another Letter of the ſame date, the ſame Party writes this enſuing Letter.

SIR,

BY *all theſe Proceedings, the King evidently ſeeth, that they* (the Scots) *will not ſubmit themſelves to Reaſon, by fairneſs or ſweetneſs, and therefore he hath taken a Reſolution to tame them by Force, and to this purpoſe goeth about to raiſe an Army in* Ireland, *not daring to truſt himſelf with the* Engliſh, *who already are much irritated againſt him, by reaſon of the* * *Monies which he pretends to raiſe to maintain his Fleet, the which they refuſe down-right to pay. This counſel of raiſing an Army, has bin ſuggeſted unto him by the Biſhop of* Canterbury, *and the Preſident of* Ireland, *which are they alone that govern him, for he hath never yet opened his Mouth, or ſpoken one ſole word of it to his Council of State, but ſeeks very much to keep all cloſe from them. The which highly diſpleaſeth all theſe Lords; and Men hold this Counſel of the Army for* Ireland, *a moſt pernitious Counſel: But I know not what better he could take, for it is moſt dangerous to raiſe it in* England, *where all the World is diſcontent; and for to raiſe an Army here, it were to give them the Sword in their hands to defend themſelves; for the part of the* Puritans *is ſo great, and they have ſuch a correſpondence with the* Scots, *that they begin already to break the Altars which the Biſhops had erected, and to accuſe the Biſhops of Crimes, and to demand the re-eſtabliſhment of many ſilenced Miniſters, with a thouſand other Inſolencies*, &c.

* Ship-mony.

June 28. *Your humble and moſt obliged Servant.*

At

14 *Caroli.*

At the ſame time there was another Letter of the ſame date writ to one Monſieur *Ford*, by ſome Prieſt or Romiſh Recuſant, to the effect following: All which ſaid Letters were found amongſt the Papers of one of his Majeſty's Privy-Council.

OUr Scots Buſineſs troubles us ſhrewdly, and grows worſe and worſe; they will have a Parliament, and the King (for the Conſequence of it in this Kingdom) will never permit it, and ſo they have taken a Reſolution to levy an Army in Ireland, *ſo to trouble them and ſubdue them; which is held there by wiſe Men to be a very deſperate Counſel. But the King conſults with none but the Arch-Biſhop and the Deputy of* Ireland; *which diſguſts all, and makes Men ſee more weakneſs in him than was ever imagined: other News we have none.* Fitten (*the Agent for the Secular Prieſts at* Rome) *is here, and was preſented to the King by my Lord* Arundel, *to whom he had ſent from* Italy *many little Toys, but now he knows he is a Prieſt. Pray tell my dear Amiable, I thank him heartily for his Note, and have ſeen his Man* Jaques Depuis, *who is a good Cutter or Graver in Stone, and continues Catholick, Honeſt, and known to the* Capucins.

Yours,

Will. Heill.

Having ended this Year as to *Engliſh Affairs*, we ſhall return to the Tranſactions of Affairs in *Scotland*, where we left, and to give an Account of the whole Proceedings of the Aſſembly at *Glaſgow*; and the firſt that comes in order of Time, is his Majeſty's Letter to the Privy-Council of *Scotland*, to aſſiſt the Marqueſs at the ſaid Aſſembly at *Glaſgow*, as followeth.

Right Truſty, and Right Well-beloved Couſin and Counſellor; Right Truſty, and Right Well-beloved Couſins and Counſellors, We greet you well. K. D.

'AS by Our Letter We find how well you are ſatisfied with Our 'gracious Pleaſure, expreſſed in Our late Proclamation and 'Declaration, ſo We do expect the continuance of your Care, by 'your beſt Endeavours, to bring all Our good People to a true ſenſe 'of Our Roial Intentions, and real Care of preferring and advancing 'the Good and Peace of that Church and Kingdom, which hath al'ways bin, and ſtill is one of Our chiefeſt Cares; We give you hearty 'thanks for your Affection and Pains in this Service, and do approve 'of your Courſe in ſubſcribing of the *Confeſſion* & *Band*, and order taken 'by you for publiſhing, and requiring the like due and thankful accep'tance of Our gracious Pleaſure by all Our good Subjects. And ſeeing 'the time of the Aſſembly doth now approach, We require you to at'tend diligently upon Our Commiſſioner, until the time appointed for 'the down-ſitting of the ſaid Aſſembly, and further, to the final ending 'thereof, that from time to time you may be aſſiſting to him with your 'beſt Opinions and Advices, for preparing and digeſting every thing

'that

An. 1638. 'that may conduce to bring this Buſineſs to be treated upon in the 'Aſſembly, to the wiſhed, peaceable, and happy end: And although 'We will not doubt but that all Our good Subjects will be careful of 'every thing that may concern Us, or Our Soveraign Authority; yet 'becauſe that at ſuch publick and general Meetings, it is not to be 'expected that all Mens Diſpoſitions will be alike, and of one temper, 'We require you, that in a more particular manner, according to the 'Truſt and Confidence We have in your Affections to Our Service, 'carefully to advert, That if any Propoſition ſhall be made which 'may ſeem to derogate from Soveraignty, or that true ſtate of Mo-'narchical Government already eſtabliſhed within that Kingdom, or 'which may impede the peaceable concluſion of this Aſſembly, that as 'good Subjects, and faithful Counſellors and Servants to Us, you aſ-'ſiſt Our Commiſſioner to withſtand the ſame to the uttermoſt of 'your Power. To whom We will you to give abſolute Truſt in 'every thing, which he in our Name ſhall deliver or impart to you, 'or any of you, in publick or in private. And ſo We bid you fare-'wel.

From our Manour of *Hampton-Court*, the firſt of *October*, 1638.

The City of *Glaſgow* being much filled and thronged with all ſorts of People; on the 21 of *November* 1638, the day deſigned by the King's Proclamation, the General Aſſembly begun, and was opened, and the Proceedings were as followeth.

After Sermon in the Morning, they aſſembled in the Afternoon, and begun with the chuſing of a Moderator. The King's Commiſſioner (who ſat upon a Seat, raiſed in a Place eminent above the reſt, with his Aſſeſſors about him conveniently ſeated below) told them that there was ſomething elſe to be done before the choice of the Moderator, *viz.* That his Commiſſion was firſt to be read, that it might be known by what Authority he ſat there; which was done accordingly, bearing date at *Oatlands* the 29*th* of *July* 1638. The *Commiſſion* followeth in theſe words.

Marqueſs *Hamilton*'s Commiſſion as to the Aſſembly.

Oatlands, *July* 29, 1638.

CArolus *Dei Gratia*, Magnæ Britanniæ, Franciæ, & Hyberniæ, *Rex, Fideique Defenſor. Omnibus probis hominibus ſuis ad quos præſentes literæ pervenerint, ſalutem. Sciatis nos conſiderantes magnos in hoc Regno noſtro* Scotiæ *non ita pridem exortos tumultus, ad quos quidem componendos multiplices Regiæ noſtræ voluntatis declarationes promulgavimus, quæ tamen minorem ſpe noſtra effectum hactenus ſortitæ ſunt & nunc Statuentes ex pio erga dictum antiquum Regnum noſtrum affectum, ut omnia gratioſe ſtabiliantur & inſtaurentur, quod (per abſentiam noſtram) non alia ratione melius effici poteſt quam fideli aliquo delegato conſtituto, cui poteſtatem credere poſſimus tumultus hujuſmodi conſopiendi aliaque officia præſtandi, quæ in bonum & commodum dicti antiqui Regni noſtri*

eidem

14 Caroli.

eidem delegato noſtro imperare nobis videbitur, cumque ſatis compertum habeamus obſequium, diligentiam & fidem prædilecti noſtri conſanguinei & conſiliarii, Jacobi *Marchionis* Hamiltonii, *Comitis* Arraniæ & Cantabrigiæ, *Domini* Aven & Annerdail, &c. *eundemque ad imperata noſtra exequenda ſufficienter inſtructum eſſe, idcirco feciſſe & conſtituiſſe, tenoreque præſentium facere & conſtituere præfatum prædilectum noſtrum conſanguineum & conſiliarium* Jacobum *Marchionem de* Hamiltoun, &c. *noſtrum Commiſſionarium ad effectum ſubſcriptum, cum poteſtate dicto* Jacobo *Marchioni de* Hamiltoun, *&c. dictum Regnum noſtrum adeundi, ibidemque præfatos tumultus in dicto Regno componendi, aliaque officia à nobis eidem committenda in dicti Regni noſtri bonum & commodum ibi præſtandi, eoque Conſilium noſtrum, quibus locis & temporibus ei viſum fuerit convocandi, ac rationem & ordinem in præmiſſis exequendis ſervandum, declarandi & præſcribendi, & quæcunque alia, ad Commiſſionis hujus capita pro commiſſa ipſi fide exequenda, eandemque ad abſolutum finem, perducendam & proſequendam conferre poſſunt, tam in Concilio quam extra Conſilium noſtro nomine efficiendi & præſtandi, idque ſimiliter & adeo libere, ac ſi nos in Sacro-Sancta noſtra perſona ibidem adeſſemus. Præterea cum plena poteſtate dicto* Jacobo *Marchioni de* Hamiltoun *prout ſibi videbitur noſtro ſervitio & bono dicti Regni noſtri conducere, conventum omnium ordinum ejuſdem Regni noſtri judicandi, ac publica Comitia & conventus eorumdem ordinum eorumve alterius vel utriuſque quibus temporibus & locis ſibi viſum fuerit ſtatuendi, & ibidem noſtram ſacratiſſimam Perſonam, cum omnibus honoribus & privilegiis, ſupremo Commiſſionario noſtri Parliamenti & publici Conventus incumbend. ſimiliter adeoque ample, ſicut quivis ſupremus Commiſſionarius in quocunque tempore retroacto gaviſus eſt gerendi, nec non cum poteſtate præfato* Jacobo *Marchioni de* Hamiltoun *Synodos Nationalis Eccleſiæ dicti Regni noſtri tenendas temporibus & locis quibus ſibi viſum fuerit indicendi, & ibidem & ſeipſum tanquam noſtrum Commiſſionarium gerendi, omniaque eiſdem tenendis inſervientia ſecundum leges & praxin prædictæ Eccleſiæ & Regni noſtri præſtandi: Et hac præſenti noſtra Commiſſione durante noſtro beneplacito duratura & ſemper donec eadem per nos expreſſe inhibeatur. In cujus rei teſtimonium præſentibus Magnum Sigillum noſtrum una cum privato noſtro Sigillo (quia præfatus Marchio de* Hamiltoun *in præſentiarum eſt Magni Sigilli cuſtos) apponi præcepimus. Apud* Oatlands *viceſimo nono die menſis* Julii, *Anno Dom. milleſimo ſexcenteſimo triceſimo octavo, & Anno Regni noſtri decimo quarto.*

Per Signaturam Manu S. D. N. Regis ſupraſcriptam.

Then the Aſſembly urged the choice of a Moderator, but the Marqueſs deſired firſt the King's Letter to be read; which was done, and is as followeth.

The King's Letter to the Aſſembly.

'ALthough We be not ignorant, that the beſt of Our Actions have bin miſtaken by many of Our Subjects, in that Our Ancient Kingdom, as if We had intended Innovation in Religion and Laws; yet conſidering nothing to be more incumbent to the Duty of *Octob.* 29.

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'of a Chriſtian King, than the advancement of God's Glory, and the 'True Religion; forgetting what is paſt, We have ſeriouſly taken in- 'to Our Princely Conſideration, ſuch Particulars as may ſettle and 'eſtabliſh the Truth of Religion in that Our Ancient Kingdom; and 'alſo to ſatisfy all Our good Subjects of the reality of Our Intentions 'herein, having indicted a free General Aſſembly to be kept at *Glaſ-* 'gow the 21 of this Inſtant. We have likewiſe appointed Our Com- 'miſſioner to attend the ſame, from whom you are to expect Our 'Pleaſure in every thing, and to whom We require to give that true 'and due Reſpect and Obedience, as if We were perſonally preſent 'Our Self: And in full aſſurance of Our conſent to what he ſhall in 'Our Name promiſe, We have ſigned theſe, and wills the ſame for a 'Teſtimony to Poſterity, to be regiſtred in the Books of the As- 'ſembly.

At *Whitehall*, Octob. 29. 1638.

After this the Marqueſs made a Speech to the Aſſembly.

My Lords, and the reſt of the Reverend Aſſembly,

The Marqueſs his Speech at the firſt ſitting of the Aſſembly.

'THe making of long Harangues, is not ſuitable either with my 'Education, or Profeſſion, much leſs with this Time, which 'now after ſo much talking, ought to be a Time of Action.

'I pray God that as great (and I hope the worſt) part of Mens 'Spirits hath bin evaporated into bitter and invective Speeches, ſo the 'beſt and laſt part of them may be reſerved for Deeds, and theſe an- 'ſwerable to the Profeſſions which have bin made on all ſides when 'this great Aſſembly ſhould come.

'For the Profeſſions which have bin made by Our Sacred Soveraign, '(whom God long preſerve to reign over us) I am come hither, by 'his Command to make them good to his whole People, whom to his 'grief he hath found to have bin poiſoned (by whom I know not 'well, but God forgive them) with miſconceits of his Intentions, 'concerning the Religion profeſſed in this Church and Kingdom. But 'to rectify all ſuch Miſconceptions of his Subjects, his Majeſty's deſire 'is, That before this Aſſembly proceed to any thing elſe, his Sub- 'jects may receive ample and clear ſatisfaction in theſe Points, wherein 'his Majeſty's gracious Intentions have bin miſdoubted, or glanced at, 'by the malevolent Aſpects of ſuch as are afraid that his Majeſty's 'good Subjects ſhould ſee his clear Mind through any other Glaſſes or 'Spectacles, than thoſe they have tempered and fitted for them.

'Theſe ſiniſtrous Aſperſions, diſperſed by Surmizes, have bin eſpe- 'cially two.

'Firſt, As if there had bin in his Majeſty, if not ſome Intentions, 'yet at leaſt ſome Inclination, to give way, if not to Alterations, yet 'to ſome Innovations in the Religion profeſſed in, and eſtabliſhed by 'the Laws of this Church and Kingdom.

'I am confident that no Man can harbour or retain any ſuch 'thought in his Breaſt any more, when his Majeſty hath commanded 'that *Confeſſion of Faith* (which you call the *Negative*) to be ſub- 'ſcribed by all his Subjects whatſoever, and hath bin graciouſly 'pleaſed to put the execution of this his Roial Command in your 'own hands.

'The

14 *Caroli.*

'The next falſe, and indeed foul and deviliſh ſurmize, wherewith 'his good Subjects have bin miſled, is, That nothing promiſed in his 'Majeſty's laſt moſt gracious Proclamation (though moſt ungraciouſly 'received), was ever intended to be performed, nay, not the Aſſem- 'bly it ſelf; but that only time was to be gained, till his Majeſty by 'Arms might oppreſs this his own Native Kingdom; than which re- 'port Hell it ſelf could not have raiſed a blacker and falſer.

'For that part which concerneth the Report of the Intention of 'not holding the Aſſembly, this Day and Place, as was firſt promiſed 'and proclaimed, (thanks be to God) confuteth that Calumny abun- 'dantly; for the other, making good what his Majeſty did promiſe in 'his laſt gracious Proclamation, his Majeſty hath commanded me thus 'to expreſs his Heart to all his good Subjects.

'He hath ſeriouſly conſidered all the Grievances of his Subjects, 'which have bin preſented to him by all and ſeveral of their Peti- 'tions, Remonſtrances, and Supplications exhibited unto himſelf, his 'Commiſſioner, and Lords of his Secret-Council, and hath graci- 'ouſly granted them all; and as he hath already granted as far as 'could be by Proclamation, ſo he doth now deſire, that his Subjects 'may be aſſured of them by Acts of this General Aſſembly, and after- 'wards by Acts of Parliament reſpective.

'And therefore he not only deſires, but commands that all the Par- 'ticulars he hath promiſed, be firſt gone in hand with in this Aſſem- 'bly, and Enacted, and then afterwards what his Subjects ſhall deſire, 'being found reaſonable, may be next thought upon, that ſo it may 'be known to God and the whole World, and particularly to all his 'good Subjects, how careful his Majeſty is to diſcharge himſelf of all 'his gracious Promiſes made to them, hoping that when you ſhall ſee 'how roially, graciouſly, and faithfully his Majeſty hath dealt with 'you and all his Subjects, you will likewiſe correſpond in loial and 'dutiful Obedience, in chearful, but calm and peaceable Proceeding, 'in all other Buſineſs to be treated of in this Aſſembly: And becauſe 'there ſhall be no Miſtake, I ſhall now repeat the Particulars, that you 'may ſee they are the ſame which were promiſed by his Majeſty's firſt 'Proclamation.

As ſoon as the Marqueſs had done ſpeaking, he tendred to the Aſ- ſembly a Paper from his Majeſty containing his Conceſſions; which Paper followeth in theſe words.

CHARLES R.

The Kings Offers to the Aſſembly.

The King's Majeſty being informed, That many of his good Subjects have apprehended, that by the Introduction of the Service-Book, and Book of Canons, the inbringing of Popery and Superſtition hath bin intended, is graciouſly pleaſed to diſcharge the ſaid Books, and to annul all Acts made for eſtabliſhing thereof; and for his good People their further ſatisfaction, is graciouſly pleaſed to declare by me, That no other in that kind ſhall hereafter be introduced, but in a fair and legal way of Aſſembly, allowed by Act of Parliament, and the Laws of this Kingdom.

The King's Majeſty, as he conceived, for the eaſe and benefit of the Subjects, eſtabliſhed the High Commiſſion, that thereby Juſtice might

An. 1638. might be administred, and the Faults and Errors of such Persons as are made liable thereto, taken order with, and punished with the more convenience, and less trouble to the People: But finding his gracious Intentions to be herein mistaken, hath bin pleased, like as he is graciously content, that the same be discharged, with all Acts and Deeds made for the establishing thereof, and is pleased to declare by me, That that Court or Judicatory, nor no other of that nature, shall be brought in hereafter, but in that way allowed by the Laws of this Kingdom.

And the King's Majesty being informed, That the urging of the five Articles of Perth's Assembly hath bred distraction in the Church and State, hath bin graciously pleased to take the same into his consideration, and for the Quiet and Peace of Church and State, doth not only dispense with the practice of the said Articles, but also discharges, and by these hath discharged all and whatsoever Persons from urging the practice thereof, upon either Laick or Ecclesiastick Person whatsoever: And doth hereby free all his Subjects from all Censure and Pain, whether Ecclesiastical or Secular, for not urging, practising, or obeying them, or any of them, notwithstanding any thing contained in the Acts of Parliament, or General Assembly to the contrary.

And because it is pretended, that Oaths have bin administred to Ministers at their entry, contrary and differing from that which is set down in the Acts of Parliament, his Majesty is pleased to declare and ordain, That no other Oath shall be required of any other Minister at his entry, than that which is expressly set down in the Acts of Parliament: And this he is content be considered of in the Assembly, to be represented to the Estates of Parliament, and enacted as they shall find expedient.

And that it may appear how careful his Majesty is, that no Corruption or Innovation shall creep into this Church, neither any Scandal, Vice, or Fault of any Person whatsoever, censurable or punishable by the Assembly, go unpunished, it is his Majesty's pleasure; likeas by these his Majesty does assure all his good Subjects, that hereafter General Assemblies shall be kept as oft as the Affairs of this Kirk shall require: And to this purpose, because it's probable that some things necessary for the present estate and good of this Church may be left unperfected at this present Assembly, We do by these indict another Assembly to be holden at And that none of Our Subjects may have cause of Grievance against the procedure of Prelats, Our pleasure is, That all and every one of the present Bishops, and their Successors, shall be answerable, and accordingly from time to time censurable, according to their Merits by the Assembly; which his Majesty is likewise pleased be enacted in this present Assembly, and thereafter ratified in Parliament.

And to give all his Majesty's good People good assurance that he never intended to admit any alteration or change in the true Religion professed within this Kingdom, and that they may be truly and fully satisfied of the reality of his Intentions towards the maintenance of the Truth, and integrity of the same, his Majesty hath bin pleased to require and command all his good Subjects, to subscribe the Confession of Faith, subscribed by his dear Father in Anno 1580; and for that effect hath ordained the Lords of his Privy-Council

Council to take ſome ſpeedy courſe, whereby the ſame may be done through the whole Kingdom; which his Majeſty requires likewiſe all thoſe of this preſent Aſſembly to ſign, and all other his Subjects, who have not done it already: And it is his Majeſty's Will, that this be inſerted and regiſtred in the Books of this Aſſembly, as a Teſtimony to Poſterity, not only of the ſincerity of his Intention to the ſaid true Religion, but alſo of his reſolution to maintain and defend the ſame, and his Subjects in the profeſſing thereof. 14 *Caroli.*

C. R.

After the Marqueſs had found the temper of the *Aſſembly*, he ſent up Sir *James Hamilton* to the King, with a full account of all Matters; containing likewiſe the Characters of all the Counſellors, together with his Advice to his Majeſty how to induce that Country to his Obedience; and to ſend a Fleet of ſome Ships to lie in the *Frith* to block up their Trade, and then to follow with a Roial Army. He alſo ſhewed the King how the Biſhops had miſcarried, and that their Ambition had bin great, but their Folly greater. Concerning which his Majeſty wrote to the Marqueſs;

That he totally agreed with him in the Characters of Men, as in the way he had ſet down to induce them to Obedience; only the time when to begin to act is conſiderable. To which end his Majeſty fully inſtructed the Bearer with the ſtate of his Preparations, that the Marqueſs may govern himſelf accordingly. Dated at *Whitehall*, *Decemb.* 3. 1638.

The Aſſembly proceeded to the choice of a *Moderator*, which before the Commiſſioner gave way to, he entred a Proteſtation, That their Act ſhould neither prejudice the King's Prerogative and Authority, nor any Law of the King's or Kingdom, nor bar the King from taking legal Exceptions, either againſt the Perſon elected, or irregularity of his Election; ſo they choſe one Mr. *Alexander Henderſon*, *nemine contradicente*, except Dr. *Hamilton*.

But at this time they rejected the reading of the *Declinator*, and went to the election of a new Clerk, whom without one contrary Voice they did chuſe one Mr. *Archibald Johnſton*, the Clerk Regiſter of their Tables, (who was alſo Clerk of their Tables at *Edinburgh*) againſt whoſe Election the King's Commiſſioner likewiſe proteſted. At his admiſſion he made a ſhort Speech, declaring his unwillingneſs to accept the Charge, yet would not be wanting to contribute his part toward the defence of the Prerogative of the *Son of God*.

Archibald Johnſton choſen Clerk Regiſter.

The next day they ſpent in reading the ſeveral *Commiſſions of Elections*; but the King's Commiſſioner entred another Proteſtation, to take exception againſt their Elections in his own due time, only for the preſent he was contented they ſhould go on, and a conteſtation did follow about the Commiſſion for the *Presbytery of Peebles*, and another concerning the Election of the *Lay-Elders* for the Preſbytery of *Brichen*.

Debate about Elections to the Aſſembly.

The Earl of *Montroſe* preſented a Commiſſion, in which the Laird of *Dunn* was choſen *Lay-Elder*, by the Voice of one Miniſter and a few Lay-Elders.

An. 1638. On the next day of their ſitting, they went on in the reſt of the Controverted Elections, and refuſed to hear the Lord *Carnegies* Election diſcuſſed.

The King in his Letter to the Aſſembly, had nominated for *Aſſeſſors* to the King's Commiſſioner, theſe ſix Perſons.

Six Aſſeſſors to the Aſſembly nominated by the King.

The Earl of *Traquair*, Lord Treaſurer.
The Earl of *Roxborough*, Lord Privy-Seal.
The Earl of *Argile*,
The Earl of *Lauderdale*, } Lords of the Privy-Council.
The Earl of *Southesk*,
And *Charles Stuart*, Advocate.

But they abſolutely refuſed to let them have any Voice at all, telling the Commiſſioner, That he might conſult with thoſe Aſſeſſors if he pleaſed, but they were to have no Voice in the Aſſembly. Upon this the Marqueſs took Inſtruments according to the Scotiſh Form, to preſerve the Privilege of his Majeſty.

The *Declinator* read.

The 27*th* of *November*, the King's Commiſſioner urged once again that the Biſhops *Declinator* might be read, which was accordingly done by the Clerk of the Aſſembly; after it was ended, the King's Commiſſioner ſpoke home to them of the neceſſity of the *Declinator*, and unavoidable ſtrength of the Reaſons contained in the ſame, and in depreſſing their Libel againſt the Biſhops, which he called *infamous* and *ſcurrilous*, both in the matter of it, and the manner of promulging of it.

The *Moderator* laments the hardneſs of the Biſhops hearts.

The *Moderator* in a ſhort Speech deplored the obſtinacy of the Biſhops Hearts, who in all the *Declinator* had bewrayed no ſign of remorſe and ſorrow for their wicked Courſes; whereupon one *Gibson*, one of the Clerks of the Seſſion, thundred out a verbal Proteſtation, That *they would purſue their Libel againſt the Biſhops ſo long as they had Lives and Fortunes.*

The King's Commiſſioner proteſted againſt the Proteſtation, and diſcharged the Biſhops Proctor from giving appearance for the Biſhops before the Aſſembly; and the Commiſſioner perceiving that they intended to keep up their Tables, although the Aſſembly ſhould be continued, and all Elections ſaid to be diſorderly, were approved of, and no Nullities admitted; and the King's Commiſſioner well weighing his Inſtructions, reſolved the next day to diſſolve the Aſſembly.

The Marqueſs on Novemb. 28. *declares to the Lords of the Council, his Reſolution to Diſſolve the Aſſembly.*

According to which Reſolution, on the 28*th* in the Morning, he called a Council in the *Chapter-Houſe*, and told them, He was neceſſitated to Diſſolve the Aſſembly, and gave his Reaſon for doing it, uſing much induſtry to gain them to concur with him in it. The Earl of *Argile* asked, *If he was to deſire the Councils Approbation of what he intended, or not?* The Marqueſs anſwered, His Inſtructions from his Majeſty were clear and poſitive for what he was to do, and therefore it was not in his Power to let any Debate be, whether he ſhould

do

14. *Caroli.*

do it or not; only he deſired their Concurrence and Advice as to the manner of doing it.

Two hours were ſpent in Diſcourſe, but clear Advices were not given from any of them; from thence the Marqueſs went to the Church where the Aſſembly ſat, and after he ſat long a Witneſs to ſome Debates were among them, it was offered to be put to Vote, whether the Aſſembly was a Free Aſſembly, notwithſtanding the Biſhops *Declinator*, or not? Upon which the Marqueſs knowing well how the Vote would run, roſe up and ſaid;

'I Find this day great contraries of humours in my ſelf; firſt, cauſe 'of Joy, next cauſe of Sorrow; cauſe of Joy, in making good what 'hath bin promiſed by his Majeſty; cauſe of Sorrow, in that I can-'not make further known his Majeſty's pious Intentions.

'You have called for a Free General Aſſembly; his Majeſty hath 'granted you one moſt free on his part, and in his Intentions; but as 'you have handled and marred the Matter, let God and the World 'judg whether the leaſt ſhadow or foot-ſtep of freedom can be diſ-'cerned in this Aſſemby by any Man who hath not given a Bill of 'Divorce both to his Underſtanding and Conſcience; with what 'wreſting and wringing your laſt Proteſtation charges his Majeſty's 'laſt gracious Proclamation in the point of Prelimitations, is both 'known and miſliked by many, even of your own pretended Cove-'nant; but whether your courſes, eſpecially in the Elections of the 'Members of the Aſſembly, be not only Prelimitations of it, but 'ſtrong Bars againſt the freedom of it, nay utterly deſtructive both of 'the Name and Nature of a Free Aſſembly, and unavoidably indu-'cing upon it many and main Nullities, will be made manifeſt to the 'whole World.

'But his Majeſty's ſincere Intentions, being to perform in a lawful 'Aſſembly all he hath promiſed in his gracious Proclamation; if you 'find out a way how theſe things may paſs and be performed even in 'this Aſſembly, ſuch as it is, and yet his Majeſty not made to ap-'prove any way the Illegalities and Nullities of it, for ſatisfying all his 'Majeſty's good Subjects of the reality of his Meaning, I am by his 'Majeſty's ſpecial Command ready to do it, and content to adviſe with 'you how it may be done.

And after this he cauſed to be read his Majeſty's *Conceſſions*, as they had bin before proclaimed, upon which he took Inſtruments, that by producing and ſigning of them, firſt his Majeſty's Intentions were made known, next that in the producing and delivering of them, the lawfulneſs of the Aſſembly was not acknowledged; after that he went on and diſcourſed againſt the Conſtitution of the Aſſembly in the following words.

'But now I am ſorry I can go on with you no more, for the ſad 'part is yet behind, about Ruling Elders; for neither Ruling Elders, nor 'any Miniſter choſen Commiſſioner by Ruling Elders, can have Voice 'there, becauſe no ſuch Election is warranted, either by the Laws of 'this Church or Kingdom, or by the practice or cuſtom of either: 'for even that little which appeareth to make for thoſe Elders in the 'Book of Diſcipline, hath at this time bin broken by you, there

'being

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'being more Lay-Elders giving Votes at every one of thoſe Elections, 'than there were Miniſters, contrary to the Book of Diſcipline; as in 'Lanerick but eight Miniſters, and eighteen or nineteen Lay-Elders; 'and ſo in divers other Preſbyteries: and in every Preſbytery, when 'the Miniſters upon the Liſt were removed, the remaining Elders ex-'ceeded far the remaining Miniſters. But ſay there were Law for thoſe 'Lay-Elders, the interruption of the execution of that Law, for a-'bove forty Years, makes ſo ſtrong a Preſcription againſt it, that with-'out a new reviving of that Law by ſome new Order from the Gene-'ral Aſſembly, it ought not again be put in practice; for if his Ma-'jeſty ſhould put in practice, and take the Penalties of any diſuſed 'Laws, without new Intimations of them from Authority, it would 'be thought by your ſelves very hard dealing.

'To ſay nothing of that Office of Lay-Elders, it being unknown 'to the Scripture or Church of Chriſt for above 1500 Years, let the 'World judg whether theſe Lay-Men be fit to give Votes in inflicting 'the Cenſures of the Church, eſpecially that great and higheſt Cenſure 'of Excommunication, none having Power to caſt off the Church 'by that Cenſure, but thoſe who have Power to admit into the 'Church by Baptiſm: And whether all the Lay-Elders here preſent 'at this Aſſembly be fit to judg of the high and deep Myſteries of 'Predeſtination, of the Univerſality of Redemtion, of the Sufficien-'cy of Grace given, or not given to all Men; of the Reſiſtability 'of Grace; of total and final Perſeverance, or Apoſtacy of the 'Saints; of the *Antilapſarian* or *Poſtlapſarian* Opinion; of Election 'and Reprobation; all which they mean to ventilate, if they do de-'termine againſt the *Arminian*, as they give out they will.

'In many Preſbyteries, theſe Lay-Elders diſagreed in their Elections 'wholly, or for the moſt part, from the Miniſters, and carried it 'from them by number of Votes, though in all reaſon the Miniſters 'themſelves ſhould beſt know the abilities and fitneſs of their Bre-'thren; and this was done in the Preſbyteries of *Chirnſide*, *Linlith-'gow*, *Aberdeen*, and divers more.

'How can theſe Men now Elected be thought fit to be Ruling-'Elders, who were never Elders before, all or moſt part of them 'being choſen ſince the Indiction of the Aſſembly, ſome of them but 'the very day before the Election of their Commiſſioners, which de-'monſtrates plainly that they were choſen only to ſerve their Aſſoci-'ates turn at this Aſſembly.

'Since the inſtitution of your Lay-Elders, by your own Princi-'ples, is to watch over the Manners of the People in the Pariſh in 'which they live; How can any Man be choſen a Ruling-Elder from 'a Preſbytery, who is not an Inhabitant within any Pariſh of that 'Preſbytery, as hath bin done in divers Elections, againſt all Law, 'Senſe, or Reaſon?

'By what Law or Practice was it ever heard, that young Noble-'men, or Gentlemen, or others, ſhould be choſen Rulers of the 'Church, being yet Minors, and in all conſtruction of Law thought 'unfit to manage their own private Eſtates; unleſs you will grant 'that Men of meaner Abilities may be thought fit to rule the Church, 'which is the Houſe of God, than are fit to rule their own private 'Houſes, Familjes, and Fortunes.

'By

14 *Caroli.*

'By what Law can any Ruling Elder be ſent to a Preſbytery to 'give Vote in any thing, eſpecially in chuſing Commiſſioners for the 'General Aſſembly, who is not choſen for that purpoſe by the Seſſion 'of that Pariſh in which he is a Ruling Elder? And who gave power 'to the Miniſter of every Pariſh, to bring with him to the Preſbytery 'for that purpoſe any Ruling Elder of his Pariſh whom he pleaſed?

'But it is well known, that divers Elders gave Votes in theſe Preſ-'byteries to the Election of ſome Commiſſioners here, who were not 'choſen by the Seſſions of their ſeveral Pariſhes to give Votes in thoſe 'Preſbyteries; and therefore ſuch Commiſſioners as were choſen by 'ſuch Lay-Elders, can have no Vote here.

'By what Law or Practice have the ſeveral Pariſhes or Preſbyteries 'choſen Aſſeſſors to their Ruling-Elders, without whoſe conſent ſome 'of the Commiſſioners here preſent are ſworn not to vote to any 'thing?

'This introducing of Ruling-Elders, is a burden ſo grievous to the 'Brethren of the Miniſtry, that many of the Preſbyteries have pro-'teſted againſt it for the time to come, ſome for the preſent; as ſhall ap-'pear by divers Proteſtations and Supplications ready to be here ex-'hibited.

'For the Miniſters choſen Commiſſioners hither, beſides that the 'fitteſt are paſſed by, and ſome choſen who were never Commiſſio-'ners of any Aſſembly before, that ſo they might not ſtand for their 'own Liberty, in an Aſſembly of the nature whereof they are utter-'ly ignorant, choice hath alſo bin made of ſome who are under the 'cenſure of the Church, of ſome who are deprived by the Church, 'of ſome who have bin baniſhed and put out of the Univerſity of '*Glaſgow*, for teaching the Scholars that Monarchies were unlawful; 'ſome baniſhed out of this Kingdom for their Seditious Sermons and 'Behaviour; and ſome for the like Offences baniſhed out of another 'of his Majeſty's Kingdoms, *Ireland*; ſome lying under the fearful 'Sentence of Excommunication; ſome having no Ordination or Im-'poſition of hands; ſome admitted to the Miniſtry, contrary to the 'ſtanding Laws of this Church and Kingdom, all of them choſen by 'Lay-Elders: What a ſcandal were it to the Reformed Churches, to 'allow this to be a lawful Aſſembly conſiſting of ſuch Members, and 'ſo unlawfully choſen?

'Of this Aſſembly divers who are choſen are at the Horn, and ſo 'by the Laws of this Kingdom are uncapable of ſitting as Judges in 'any Judicatory.

'Three Oaths are to be adminiſtred to every Member of this Aſ-'ſembly; the Oath for the Confeſſion of Faith, lately renewed by his 'Majeſty's Commandment; the Oaths of Allegiance, and Supremacy; 'and whoſoever ſhall refuſe any of theſe, cannot be a Judg in any 'Judicatory of this Kingdom, and therefore reſolve preſently whe-'ther you will take them or not.

'You have cited the Reverend Prelates of this Land to appear be-'fore you by a way unheard of, not only in this Kingdom, but in 'the whole Chriſtian World, their Citations being read in the Pul-'pits, which is not uſual in this Church; nay, and many of them 'were read in the Pulpits after they had bin delivered into the Biſhops 'own hands. How can his Majeſty deny unto them, being his Sub-'jects, the benefit of his Laws, in declining all thoſe to be their

'Judges,

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'Judges, who by their Covenant do hold the principal thing in Que-
'ſtion, to wit, Epiſcopacy, to be abjur'd, as many of you do? Or
'any of you to be their Judges, who do adhere to your laſt Proteſta-
'tion, wherein you declare, that it is an Office not known to this
'Kingdom, although at this preſent it ſtand eſtabliſhed both by Acts
'of Parliament, and Acts of General Aſſemblies? Whoever heard of
'ſuch Judges as have ſworn themſelves Parties? And if it ſhall be ob-
'jected, That the Orthodox Biſhops in the firſt four, and other Ge-
'neral Councils, could not be denied to be competent Judges of the
'Hereticks, though before-hand they had declared their Judgments
'againſt their Hereſies: It is eaſily anſwered, That in Matters of He-
'reſie no Man muſt be patient, ſince in Fundamental Points of Faith
'a Man cannot be indifferent without the hazard of his Salvation, and
'therefore muſt declare himſelf to be on Chriſt's ſide, or elſe he is
'againſt him; but in Matters of Church-Government and Policy,
'which by the Judgment of this Church, in the 21 Article of our
'*Confeſſion*, is alterable at the Will of the Church; It is not neceſſa-
'ry for any Man who means to be a Judg, to declare himſelf, eſpecially
'againſt that Government which ſtands eſtabliſhed by Law at the
'time of his Declaration, being not only neceſſary, but likewiſe un-
'lawful for him at that time ſo to do: Now this Declaration, all you
'who adhere to the laſt Proteſtation, have made even ſince you
'moved to be the Biſhops Judges. Beſides, even thoſe Orthodox
'Fathers never did declare themſelves againſt the Hereticks, their Per-
'ſons or Callings, by Oaths and Proteſtations, as you have done; for
'that had bin a prejudging in them; and this prejudging in you,
'makes you now to be incompetent Judges.

'Upon the whole Matter then there are but two things left for me
'to ſay; Firſt, You your ſelves have ſo proceeded in the Buſineſs of
'this Aſſembly, that it is impoſſible the Fruits ſo much wiſhed and
'prayed for, can be obtained in it; becauſe ſtanding as it does, it will
'make this Church ridiculous to all the Adverſaries of our Religion, it
'will grieve and wound all our Neighbour Reformed Churches who
'hear of it; it will make his Majeſty's Juſtice to be traduced through-
'out the whole Chriſtian World, if he ſhould ſuffer his Subjects in
'that which concerns their Callings, their Reputations, and their
'Fortunes, to be judged by their ſworn Enemies; if therefore you
'will diſſolve your ſelves, and amend all theſe Errors in a new Electi-
'on, I will with all convenient ſpeed addreſs my ſelf to his Majeſty,
'and uſe the utmoſt of my interceſſion with his Sacred Majeſty for
'the indiction of a new Aſſembly; before the meeting whereof, all
'theſe things now challenged, may be amended. If you ſhall refuſe
'this Offer, his Majeſty will then declare to the whole World, that
'you are diſturbers of the Peace of this Church and State, both by
'introducing the Lay-Elders againſt the Laws and Practices of this
'Church and Kingdom, and by going about to aboliſh Epiſcopal Go-
'vernment, which at preſent ſtands eſtabliſhed by both the ſaid Laws.
'Two points (I dare ſay) and you muſt ſwear it, if your Conſcien-
'ces be appealed to, (as was well obſerved by that Reverend Gen-
'tleman we heard preach the laſt *Sunday*) which theſe you drew into
'your Covenant were never made acquainted with at their entring
'into it, much leſs could they ſuſpect, that theſe two ſhould be made
'the iſſue of this Buſineſs, and the two ſtumbling-Blocks to make

'them

'them fall off from their natural Obedience to their Soveraign. Carol. 14.

'As for your pretence of your unlimited freedom, you indeed re-'fuſed ſo much as to hear from his Majeſty's Commiſſioner, of any 'Precedent Treaty, for the preparing and right-ordering of things be-'fore the Aſſembly; alleaging that it could not be a Free Aſſembly, 'where there was any prelimitation, either of the Chuſers, or of thoſe 'to be choſen, or of any things to be treated of in the Aſſembly, but 'that all things muſt be diſcuſſed upon the place, elſe the Aſſembly 'could not be free: but whether you your ſelves have not violated 'that which you call Freedom, let any Man judg; for beſides theſe 'Inſtructions, which it may be are not come to our knowledg, we 'have ſeen, and offer now to produce, four ſeveral Papers of Inſtru-'ctions ſent from them, (whom you call the *Tables*) containing all of 'them Prelimitations, and ſuch as are not only repugnant to that 'which you call the Freedom, but to that which is indeed the Free-'dom of an Aſſembly. Two of theſe Papers were ſuch as you were 'contented ſhould be communicated to all your Aſſociates; to wit, 'that larger Paper ſent abroad to all Preſbyteries, immediately after his 'Majeſty's indiction of the Aſſembly; and that leſſer Paper for your 'meeting firſt at *Edinburgh*, then at *Glaſgow*, ſome days before the Aſ-'ſembly; which Paper gave order for the chuſing of Aſſeſſors, and 'divers other Particulars: But your other two Papers of Secret In-'ſtructions were directed, one of them only to one Miniſter of every 'Preſbytery, to be communicated by him as he ſhould ſee cauſe, but 'to be quite concealed from the reſt of the Miniſters; the other Pa-'per was directed only to one Lay-Elder of every Preſbytery, to be 'communicated by him as he ſhould ſee cauſe, to be quite concealed 'from all others: In both which Papers are contained ſuch Directi-'ons, which being followed as they were, have quite baniſhed all 'Freedom from this Aſſembly; as ſhall appear by reading the Papers 'themſelves.

Theſe he cauſed to be read, but they were diſowned by the Mem-bers of the Aſſembly; and they ſaid, They *might have bin the private Opinions of ſome, but did infer no prelimitation on the Aſſembly.* To which the Marqueſs anſwered, That all the Elections being ordered accord-ing to theſe, was a clear proof they were ſent by an Authority which all feared to diſobey. And after that he told, that for many months the Orders of the *Tables* had bin obeyed by all, but he would now make a Trial what Obedience they would give to the King's Com-mand; and proteſted, That one of the chief Reaſons that moved him to diſſolve this Aſſembly, was, to deliver the Miniſters from the Ty-ranny of Lay-Elders, who (if not ſuppreſſed) would (as they were now deſigning the ruin of Epiſcopal Power) prove not only Ruling, but Over-ruling Elders; ſo in his Majeſty's Name he diſſol-ved the Aſſembly, and diſcharged their further Proceedings under pain of Treaſon.

Mr. *Henderſon*, and the Earl of *Rothes* anſwered him, That *they were ſorry he left them, but their Conſciences bore them witneſs, they had hitherto done nothing amiſs, and therefore would not deſert the Work of God*; proteſting much of their Duty and Obedience to the King in its due Line and Subordination.

An. 1638. The Marqueſs preſently went out and called a new Council, to whom he imparted his Mind: But from the Council the Earl of *Argile* withdrew, and fully cleared all jealouſies about him; for he told the Marqueſs in plain Language, *He would take the Covenant, and own the Aſſembly:* but moſt of the Council ſeemed ſatisfied with the Marqueſs his Carriage in the Aſſembly; yet the Marqueſs durſt not offer to them the Proclamation for diſſolving the Aſſembly to be ſigned in Council for fear of refuſal, not having tried them all in it before-hand; but the next morning he got them to ſign it, and then he ſent it to the Market-Croſs at *Glaſgow* to be proclaimed, where it met with a Proteſtation; both which do follow.

CHARLES by the Grace of God, King of *Scotland*, *England*, *France*, and *Ireland*, Defender of the Faith. To all Our Lovits, Heraulds, Purſevants, Our Sheriffs in that part conjunctly and ſeverally ſpecially conſtitute, Greeting.

FOraſmickle as out of the Roial and Fatherly Care which We have had of the Good and Peace of this Our Ancient and Native Kingdom; having taken into Our ſerious Conſideration all ſuch things as might have given contentment to Our Good and Loſal Subjects: And to this end had diſcharged, by our Proclamation, the Service-Book, Book of Canons, and High-Commiſſion; freed and liberate all Men from the practiſing of the Five Articles, made all our Subjects, both Eccleſiaſtical and Civil, liable to the Cenſure of Parliament, General Aſſembly, or any other Judicatory competent, according to the nature and quality of the Offence: And for the free entry of Miniſters, that no other Oath be adminiſtred unto them, than that which is contained in the Act of Parliament, had declared all by-gone Diſorders abſolutely forgotten and forgiven: And for the more full and clear extirpating all ground and occaſion of fears of Innovation of Religion, We had commanded the Confeſſion of Faith, and Band for maintenance thereof, and of Authority in defence of the ſame, ſubſcribed by our dear Father and his Houſehold, in Anno 1580, to be renewed and ſubſcribed again by our Subjects here: like-as for ſetling of a perfect Peace in the Church and Common-Wealth of this Kingdom, We cauſed indict a free General Aſſembly to be holden at Glaſgow the 21 of this Inſtant, and thereafter a Parliament in May, 1639. By which clement dealing, We looked aſſuredly to have reduced our Subjects to their former quiet Behaviour, and dutiful Carriage, whereto they are bound by the Word of God, and Laws, both National and Municipial, to Us their Native and Soveraign Prince. And albeit the wiſhed Effects did not follow, but on the contrary, by Our ſo gracious procedure they were rather emboldened, not only to continue in their ſtubborn and unlawful ways, but alſo daily add to their former procedures, acts of Neglect and contempt of Authority, as evidently appeared by open oppoſition of Our juſt and religious Pleaſure and Command, expreſt in our laſt Proclamation anent the diſcharge of the Service-Book, Book of Canons, High-Commiſſion, &c. proteſting againſt

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the same, and striving by many indirect means to withdraw the Hearts of our good People, not only from a hearty acknowledgment of Our gracious dealing with them, but also from the due Obedience to those Our just and religious Commands, notwithstanding We had him formerly so oft petitioned by themselves for the same, by their daily and hourly guarding and watching about our Castle of Edinburgh, suffering nothing to be imported therein but at their discretion; and openly stopping and impeding any importation of Ammunition, or other necessaries whatsoever, to any other of our Houses within that Kingdom: denying to As their Soveraign Lord that liberty and freedom which the meanest of them assume to themselves, (an Act without President or example in the Christian World) by making of Convocations and Council-Tables of Nobility, Gentry, Burrows, and Ministers, within the City of Edinburgh; where, not regarding the Laws of the Kingdom, they, without Warrant of Authority, Convene, Assemble, and treat upon Matters, as well Ecclesiastical as Civil; send their Injunctions and Directions throughout the Country to their Subordinate Tables, and other under-Ministers appointed by them for that effect. And under colour and pretext of Religion, exercising an unwarranted and unbounden Liberty, require Obedience to their illegal and unlawful Procedures and Directions, to the great and seen prejudice of Authority, and lawful Monarchical Government. And notwithstanding it was evidently manifest, by the illegal and informal Course taken in the Election of their Commissioners for the Assembly, whereof some are under the censure of this Church, some under the censure of the Church of Ireland, and some long since banished for open and avowed teaching against Monarchy; others of them suspended, and some admitted to the Ministry, contrary to the Form prescribed by the Laws of this Kingdom; others of them a long time since denounced Rebels, and put to the Horne, who by all Law, and unviolable custom and practice of this Kingdom, are, and ever have bin incapable, either to pursue, or defend, before any Judicatory, far less to be Judges themselves; some of them confined, and all of them by Oath and Subscription bound to the overthrow of Episcopacy: And by this and other under-hand working, and private informations and perswasions, have given just ground of suspicion of their partiality herein, and to made themselves unfit Judges of what concerneth Episcopacy. And also it was sufficiently cleared by the peremptory and illegal Procedures of the Presbyteries, who at their own hand, without order of Law, and without due form of process, thrust out the Moderators lawfully established, and placed others, whom they found most inclinable to their turbulent Humours; associate to themselves for the chusing the said Commissioners for the Assembly, a Laick Elder out of each Paroch; who being in most places equal, if not more in number than the Ministry, made choice both of the Ministers who should be Commissioners from the Presbyteries, as also of a Ruling-Elder; being directed more therein by the Warrants from the foresaid pretended Tables, than by their own Judgments; as appears by the several private Instructions sent from them; far contrary to the Laws of the Country, and lowable custom of the Church: by which doings it is too manifest, that no calm nor peaceable procedure or course could have bin expected from this

14 *Caroli.*

An. 1638. Assembly, for setling the present Disorders and Distractions: Yet We were pleased herein in some sort to blindfold our own Judgment, and overlook the said Disorders, and patiently to attend the meeting of the said Assembly; still hoping that when they were met together, by our Commissioner his presence, and assistance of such other well-disposed Subjects who were to be there, and by their own seeing the real performance of all that was promised by our last Proclamation, they should have bin induced to return to their due Obedience of Subjects. But perceiving that their seditious Disposition still increases, by their repairing to the said Assembly with great Bands and Troops of Men, all bodein in fear of War, with Guns and Pistols, contrary to the Laws of this Kingdom, custom observed in all Assemblies, and in high contempt of our last Proclamation at Edinburgh the 16th of this Instant. As also by their peremptory refusing of our Assessors authorized by Us, (although fewer in number than our dearest Father was in use to have at divers Assemblies) the power of Voting in this Assembly, as formerly they have done in other Assemblies; and by their partial, unjust, and unchristian refusing, and not suffering to be read the Reasons and Arguments given in by the Bishops, and their Adherents, to our Commissioner, why the Assembly ought not to proceed to the election of a Moderator with them, neither yet to the admitting of any of the said Commissioners from Presbyteries, before they were heard to object against the same, though earnestly required by our Commissioner in our Name. And notwithstanding that our Commissioner under his hand, by Warrant from Us, gave in a sufficient Declaration of all that was contained in our late Proclamation and Declaration, the same bearing likewise our Pleasure of the Registration of the same in the Books of the Assembly, for the full assurance of the True Religion to all our good Subjects: And yet not resting satisfied therewith, lest the continuance of their meeting together might produce other the like dangerous Acts, derogatory to Royal Authority, We have thought good, for preventing thereof, and for the whole Causes and Reasons abovementioned, and divers others importing the True Monarchical Government of this Estate, to dissolve and break up the said Assembly. And therefore,

Our Will is, That We do discharge and inhibit all and whatsoever pretended Commissioners, and other Members of the said pretended Assembly, of all further meeting and convening, treating and concluding any thing belonging to the said Assembly, under the pain of Treason; declaring all and whatsoever that they shall happen to do in any pretended Meeting thereafter, to be null, of no strength, force nor effect, with all that may follow thereupon: prohibiting and discharging all our Lieges to give Obedience thereto, and declaring them, and every one of them, free and exempt from the same, and of all hazard that may ensue for not obeying thereof. And for the effect, We command and charge all the foresaid pretended Commissioners, and other Members of the said Assembly, to depart forth of this City of Glasgow within the space of 24 hours after the publication hereof, and to repair home to their own Houses; or that they go about their own private Affairs in a quiet manner. With special provision always, That the foresaid Declaration, given in under our Commissioner's hand, with all therein contained, shall notwithstanding

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ing hereof ſtand full, firm, and ſure to all our good Subjects in all time coming, for the full aſſurance to them of the True Religion. And our Will is, and We command and charge, That incontinent theſe our Letters ſeen, ye paſs, and make publication hereof by open Proclamation, at the Market-Croſs of Glaſgow, and other places needful, where through none pretend ignorance of the ſame. 14 *Caroli.*

Given under Our Signet at *Glaſgow*, the 29*th* of *November*, and of Our Raign the 14*th* Year.

Sic Subſcribitur.

Hamilton, Traquair, Roxborough, Murray, Linlithgow, Perth, Kinghorne, Tullibardin, Haddington, Galloway, Annandaill, Lauderdale, Kinnoull, Dumfreis, Southesk, Belhaven, Angus, Dalyel, J. Hay, W. Elphinſton, Ja. Carmichael, J. Hamilton.

The Proteſtation of the General Aſſembly *of the Church of* Scotland, *&c. made in the High Kirk, and at the Market-Croſs of* Glaſgow, *Nov.* 29. 1638.

'WE Commiſſioners from Preſbyteries, Burghs, and Univerſities, now convened in a full and free Aſſembly of the Church of *Scotland*, indicted by his Majeſty, and gathered together in the Name of the *Lord Jeſus Chriſt*, the only Head and Monarch of his own Church; And we Noblemen, Barons, Gentlemen, Miniſters, Burgeſſes, and Commons, Subſcribers of the *Confeſſion of Faith*, make it known, That where we his Majeſty's Loial Subjects, of all Degrees, conſidering and taking to heart the many and great Innovations and Corruptions, lately by the Prelates and their Adherents, intruded into the Doctrine, Worſhip, and Diſcipline of this Church, which had bin before in great purity, to our unſpeakable comfort, eſtabliſhed amongſt us, were moved to preſent many earneſt Deſires, and humble Supplications to his Sacred Majeſty for granting a free General Aſſembly, as the only legal and ready mean to try theſe Innovations, to purge out the Corruptions, and ſettle the Order of the Church for the Good of Religion, the Honour of the King, and the Comfort and Peace of the Kirk and Kingdom. It pleaſed his Gracious Majeſty, out of his Roial Bounty, to direct unto this Kingdom, the Noble and Potent Lord, *James*, Marqueſs of *Hamilton*, with Commiſſion to hear and redreſs the juſt Grievances of the good Subjects; who by many Petitions, and frequent Conferences, being fully informed of the abſolute neceſſity of a free General Aſſembly, as the only Judicatory which had Power to remedy thoſe Evils, was pleaſed to undergo the pains of a Voyage to *England*, for preſenting the pitiful condition of our Church to his Sacred Majeſty.

'And the ſaid Commiſſioner his Grace, returned again in *Auguſt* laſt, with Power to Indict an Aſſembly, but with the condition of ſuch Prelimitations, as did both deſtroy, and could no ways cure the preſent Diſeaſes of this Church; which was made ſo clearly ap-

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An. 1638. 'parent to his Grace, that for ſatisfying the reaſonable Deſire of the 'Subjects, groaning under the wearineſs and prejudices of long-ſome 'Attendance; He was again pleaſed to undertake another Journey 'to his Majeſty, and promiſed to endeavour to obtain a free General 'Aſſembly, without any Prelimitation, either of the Conſtitution 'and Members, or Matters to be treated, or Manner and Order of 'Proceeding; ſo that if any Queſtion ſhould ariſe concerning theſe 'Particulars, the ſame ſhould be cognoſed, judged, and determined 'by the Aſſembly as the only Judg competent. And accordingly by 'Warrant from our Sacred Soveraign, returned to this Kingdom, and 'in *September* laſt, cauſed indict a free General Aſſembly to be holden 'at *Glaſgow*, the 21 of *November* inſtant, to the unſpeakable Joy of 'all good Subjects, and Chriſtian Hearts, who thereby did expect the 'perfect ſatisfaction of their long Expectations, and the final Remedy 'of their preſſing Grievances. But theſe Hopes were ſoon blaſted: 'for albeit the Aſſembly did meet and begin at the appointed day, 'and hath hitherto continued, ſtill aſſiſted with his Grace's Perſonal 'preſence; yet his Grace hath never allowed any Freedom to the 'Aſſembly, competent to it, to the Word of God, Acts and Practice 'of this Church, and his Majeſty's Indiction; but hath laboured to re-'ſtrain the ſame, by proteſting againſt all the Acts made therein, and 'againſt the Conſtitution thereof by ſuch Members, as by all Law, 'Reaſon, and Cuſtom of this Church, were ever admitted in our 'Free Aſſemblies, and by denying his approbation to the things pro-'poned and concluded, though moſt clear, cuſtomable, and uncon-'troverted.

'And now ſince his Grace, after the preſenting and reading of 'his own *Commiſſion*, from our Sacred Soveraign, and after his ſee-'ing all our *Commiſſions* from Preſbyteries, and Burrows, produ-'duced and examined, and the Aſſembly conſtitute of all the Mem-'bers by unanimous conſent, doth now, to our greater Grief, without 'any juſt cauſe or occaſion offered by us, unexpectedly diſcharges us 'from any further meeting or proceeding in this Aſſembly, under the 'pain of *Treaſon*; and after ſeven days ſitting, declare all Acts made, 'or hereafter to be made in this Aſſembly, to be of no force nor 'ſtrength; and that for ſuch Cauſes as are either expreſſed in his 'Majeſty's former Proclamations, (and ſo are anſwered in our former 'Proteſtations) or ſet down in the Declinator and Proteſtation pre-'ſented in the Name of the Prelates, (which are fully cleared in our 'Anſwer made thereto) or elſe were long ſince propounded by the 'Commiſſioner his Grace in his eleven Articles or Demands ſent unto 'us, before the indiction of the Aſſembly (and ſo were ſatisfied by 'our Anſwers, which his Grace acknowledged, by promiſing, after 'the recept thereof, to procure a free General Aſſembly, and with power 'to determine upon all Queſtions anent the Members, Manner, and 'Matter thereof); all which, for avoiding tediouſneſs, we here re-'peat, or otherwiſe the ſaid Cauſes alleged by the Commiſſioner, were 'proponded by his Grace in the Aſſembly: ſuch as, firſt, That the 'Aſſembly refuſed to read the Declinator, and Proteſtation exhibited 'by the Prelates; which nevertheleſs was publickly read and conſi-'dered by the Aſſembly, immediately after the Election of a Mode-'rator, and conſtitution of the Members; before the which there was 'no Aſſembly eſtabliſhed, to whom the ſame could have bin read.

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14 *Caroli.*

'Next, That Ruling-Elders were permitted to have Voices in the 'Election of Commiſſioners from Preſbyteries, which was known to 'his Grace before the indiction and meeting of the Aſſembly, and is 'ſo agreeable to the Acts and Practice of this Church, inviolably ob-'ſerved before the late times of Corruption, that not one of the Aſ-'ſembly doubted thereof; to whom by the indiction and promiſe of 'a free Aſſembly, the determination of that Queſtion, anent the 'Members conſtituent property belonged.

'And laſtly, That the Voices of the ſix Aſſeſſors who did ſit with 'his Grace, were not asked and numbred, which we could not per-'ceive to be any juſt cauſe of Offence, ſince after 39 National Aſſemblies 'of this Reformed Church, where neither the King's Majeſty, nor 'any in his Name was preſent, at the humble and earneſt deſire of 'the Aſſembly, his Majeſty graciouſly vouchſafed his preſence, either 'in his own Roial Perſon, or by a Commiſſioner, not for voting or 'multiplying of Voices, but as Princes and Emperors of old, in a 'princely manner, to countenance that Meeting, and to preſide in it 'for external Order; and if we had bin honoured with his Majeſty's 'Perſonal Preſence, his Majeſty (according to the practice of King '*James* of Bleſſed Memory) would have only given his own Judg-'ment in voting of Matters, and would not have called others who 'had not bin cloathed with Commiſſion from the Church, to carry 'things by plurality of Voices.

'Therefore in conſcience of our Duty to God and his Truth, the 'King and his Honour, the Church and her Liberties, this Kingdom 'and her Peace, this Aſſembly and her Freedom, to our Selves and 'our Safety, to our Poſterity, Perſons, and Eſtates, we profeſs, with 'ſorrowful and heavy, but Loial Hearts, That we cannot diſſolve this 'Aſſembly for the Reaſons following.

1. 'For the Reaſons already printed anent the neceſſity of con-'vening a General Aſſembly, which are now more ſtrong in this caſe, 'ſeeing the Aſſembly was already indicted by his Majeſty's Authority, 'did convene, and is fully conſtitute in all the Members thereof, ac-'cording to the Word of God, and Diſcipline of this Church, in 'the preſence and audience of his Majeſty's Commiſſioner, who hath 'really acknowledged the ſame, by aſſiſting therein ſeven days; and 'exhibition of his Majeſty's Roial Declaration to be Regiſtrate in the 'Books of this Aſſembly, which accordingly is done.

2. 'For Reaſons contained in the former Proſtetations, made in 'the Name of the Noblemen, Barons, Burgeſſes, Miniſters, and Com-'mons, whereunto we do now judicially adhere, as alſo unto the '*Confeſſion of Faith and Covenant*, ſubſcribed and ſworn by the Body 'of this Kingdom.

3. 'Becauſe, as we are obliged by the Application and Explication 'ſubjoined, neceſſarily to the *Confeſſion of Faith* ſubſcribed by us; So 'the King's Majeſty, and his Commiſſioner and Privy-Council, have 'urged many of this Kingdom to ſubſcribe the *Confeſſion of Faith* 'made in *Anno* 1580, and 1590, and ſo to return to the Doctrine 'and Diſcipline of this Church as it was then profeſſed: But it is clear 'by the Doctrine and Diſcipline of this Church, contained in the 'Book of Policy then regiſtrate in the Books of Aſſembly, and ſubſcri-'bed by the Preſbyteries of this Church, That it was moſt unlawful in 'it ſelf, and prejudicial to theſe Priviledges which Chriſt in his Word

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'hath left to his Church, to diſſolve or break up the Aſſembly of this 'Church, or to ſtop and ſtay their Proceedings, in conſtitution of 'Acts for the welfare of the Church, or execution of Diſcipline 'againſt Offenders; and ſo to make it appear, that Religion and 'Church-Government ſhould depend abſolutely upon the Pleaſure of 'the Prince.

4. 'Becauſe there is no ground of pretence, either by Act of Aſ-'ſembly or Parliament, or any preceding practice, whereby the King's 'Majeſty may lawfully diſſolve the General Aſſembly of the Church 'of *Scotland*, far leſs his Majeſty's Commiſſioner, who by his Commiſ-'ſion hath Power to indict and keep, *ſecundum legem & praxim*; but 'upon the contrary, his Majeſty's Prerogative Roial, is declared by 'Act of Parliament to be no ways prejudicial to the Privileges and 'Liberties which God hath granted to the Spiritual Office-bearers, and 'Meetings of this his Church; which are moſt frequently ratified in 'Parliament, and eſpecially in the laſt Parliament holden by his Ma-'jeſty *himſelf*: Which Privileges and Liberties of the Church, his 'Majeſty will never diminiſh or infringe, being bound to maintain 'the ſame in integrity, by ſolemn Oath given at his Roial Corona-'tion in this Kingdom.

5. 'The Aſſemblies of this Church have ſtill injoied this freedom 'of uninterrupted ſitting, without or notwithſtanning any *contramand*, 'as is evident by all the Records thereof; and in ſpecial, by the Ge-'neral Aſſembly holden in *Anno* 1582; which being charged by Let-'ters of Horning, by the King's Majeſty, his Commiſſioner and 'Council, to ſtay their Proceſs againſt Mr. *Robert Montgomery*, pre-'tended Biſhop of *Glaſgow*, or otherwiſe to diſſolve and riſe; did, 'notwithſtanding, ſhew their Liberty and Freedom, by continuing 'and ſitting ſtill, and without any ſtay, going on in the Proceſs 'againſt the ſaid Mr. *Robert* to the final end thereof: And thereafter, 'by Letter to his Majeſty, did ſhew clearly how far his Majeſty had 'bin uninformed, and upon miſinformation, prejudged the Preroga-'tive of *Jeſus Chriſt*, and the Liberties of the Church; and did En-'act and Ordain, That none ſhould procure any ſuch Warrant or 'Charge, upon the pain of Excommunication.

6. 'Becauſe now to diſſolve, after ſo many Supplications and Com-'plaints, after ſo many reiterated Promiſes, after our long attendance 'and expectation, after ſo many References of Proceſſes from Preſby-'teries; after the publick indiction of the Aſſembly, and the ſolemn 'Faſt appointed for the ſame, after frequent convention, formal 'conſtitution of the Aſſembly in all the Members thereof, and ſeven 'days ſitting, were by this Act to offend God, contemn the Subjects 'Petitions, deceive many of their conceived hopes of redreſs of the 'Calamities of the Church and Kingdom, multiply the Combuſtions 'of this Church, and make every Man deſpair hereafter ever to ſee 'Religion eſtabliſhed, Innovations removed, the Subjects Complaint 'reſpected, or the Offenders puniſhed with conſent of Authority; 'and ſo by caſting the Church looſe and deſolate, would abandon both 'to ruin.

7. 'It is moſt neceſſary to continue this Aſſembly for preventing 'the Prejudices that may enſue upon the pretence of the *two Cove-'nants*, whereas indeed there is but one; that firſt ſubſcribed in 1580, 'and 1590, being a National Covenant and Oath to God, which is

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'lately renewed by Us with that neceſſary Explanation, which the 'Corruptions introduced ſince that time, contrary to the ſame, infor-'ced. Which is alſo acknowledged by the Acts of Council in *Septem-'ber* laſt, declaring the ſame to be ſubſcribed, as it was meaned the 'time of the firſt ſubſcription: And therefore for removing that 'ſhame, and all Prejudices that may follow upon the ſhow of two 'different *Covenants* and *Confeſſions of Faith* in one Nation, the Aſſem-'bly cannot diſſolve, before it try, find, and determine, that both 'theſe Covenants are but one and the ſelf-ſame Covenant. The lat-'ter renewed by us, agreeing to the true genuine ſenſe and meaning 'of the firſt, as it was ſubſcribed in *Anno* 1580.

'For theſe, and many other Reaſons, we the Members of this Aſ-'ſembly, in our own Name, and in the Name of the Kirk of *Scot-'land*, whom we repreſent, and we Noblemen, Barons, Gentlemen, 'Miniſters, Burgeſſes, and Commons, before mentioned, do ſolemnly 'declare, in the preſence of the Everliving God, and before all Men; 'and proteſt,

1. 'That our Thoughts are not guilty of any thing which is not 'incumbent to us, as good Chriſtians towards God, and Loial Subjects 'towards our Sacred Soveraign.

2. 'That all the *Proteſtations*, general and particular, proponed or 'to be proponed by the Commiſſioner his Grace, or the Prelates and 'their Adherents, may be preſently diſcuſſed before this General Aſ-'ſembly, being the higheſt Eccleſiaſtical Judicatory of this Kingdom; 'and that his Grace depart not till the ſame be done.

3. 'That the Lord Commiſſioner depart not till this Aſſembly do 'fully ſettle the ſolid Peace of this Church, cognoſcing and examin-'ing the Corruptions introduced upon the Doctrine and Diſcipline 'thereof: And for attaining hereof, and removing all juſt Exceptions 'which may be taken at our Proceedings, we atteſt God, the Searcher 'of all Hearts, that our Intentions and whole Proceedings in this pre-'ſent Aſſembly, have bin, are, and ſhall be, according to the Word 'of God, the Laws and Conſtitutions of this Church, the Confeſſion of 'Faith, our National Oath, and that meaſure of Light which God the 'Father of Light ſhall grant Us, and that in the ſincerity of our 'Hearts, without any preoccupation or paſſion.

4. 'That if the Commiſſioner his Grace depart, and leave this 'Church and Kingdom in this preſent diſorder, and diſcharge this Aſ-'ſembly, That it is both lawful and neceſſary for us to ſit ſtill and con-'tinue in keeping this preſent Aſſembly indicted by his Majeſty, till 'we have tried, judged, cenſured, all the by-gone Evils, and the In-'troductors, and provide a ſolid courſe for continuing God's Truth 'in this Land with Purity and Liberty, according to his Word, our 'Oath, and Confeſſion of Faith, and the lawful Conſtitutions of this 'Church; and that with the Grace of God, we and every one of us 'adhering thereunto, ſhall ſit ſtill and continue in this Aſſembly, till 'after the final ſetling and concluſion of all Matters, it be diſſolved 'by common conſent of all the Members thereof.

5. 'That this Aſſembly is and ſhould be eſteemed and obeyed as a 'moſt lawful, full and free General Aſſembly of this Kingdom; and 'that all Acts, Sentences, Conſtitutions, Cenſures, and Proceedings 'of this Aſſembly, are, and ſhould be reputed, obeyed, and obſer-'ved by all the Subjects of this Kingdom, and Members of this

An. 1638. 'Church, as the Actions, Sentences, Conſtitutions, Cenſures, and 'Proceedings of a full and free General Aſſemblie of this Church of 'Scotland, and to have all ready execution under the Eccleſiaſtical 'Pains contained, or to be contained therein, and conform thereto in 'all Points.

6. 'That whatſoever Inconveniences fall out, by impeding, mo- 'leſting, or ſtaying the free Meeting, Sitting, Reaſoning, or Con- 'cluding of this preſent Aſſembly, in Matters belonging to their Ju- 'dicatory, by the Word of God, Laws and Practice of this Church, 'and the Confeſſion of Faith; or in the obſerving and obeying the 'Acts, Ordinances, and Concluſions thereof, or Execution to follow 'thereupon, that the ſame be not imputed unto us, or any of us, who 'moſt ardently deſire the concurrence of his Majeſty's Commiſſioner 'to this lawful Aſſembly: But upon the contrary, That the Prelates 'and their Adherents, who have proteſted and declined this preſent 'Aſſembly, in Conſcience of their own guiltineſs, not daring to abide 'any legal Trial; and by their miſinformation have moved the Com- 'miſſioner his Grace to depart and diſcharge this Aſſembly; be 'eſteemed, reputed, and holden the Diſturbers of this Peace, and 'Overthrowers of the Liberties of the Church, and guilty of all the 'Evils which ſhall follow hereupon, and condignly cenſured accord- 'ing to the greatneſs of their Fault, and Acts of the Church and 'Realm. And to this end we again and again do by theſe Preſents 'cite and ſummon them, and every one of them, to compere before 'this preſent General Aſſembly to anſwer to the Premiſes, and to give in 'their Reaſons, Defences, and Anſwers againſt the Complaints given 'in, or to be given in againſt them, and to hear Probation led, and 'Sentence pronounced againſt them, and conform to our former Ci- 'tations, and according to Juſtice, with certification as Effeirs; like 'as by theſe Preſents we ſummon and cite all thoſe of his Majeſty's 'Council, or any other who have procured, conſented, ſubſcribed, 'or ratified this preſent Proclamation to be reſponſable to his Majeſty, 'and three Eſtates of Parliament, for their counſel given in this Mat- 'ter, ſo highly importing his Majeſty, and the whole Realm, conform 'to the 12 Act King *James*, 4 Parliam. 2. and proteſt for remedy of 'Law againſt them, and every one of them.

7. 'And laſtly, We proteſt that as we adhere to the former Prote- 'ſtations, all and every one of them, made in the Name of the No- 'blemen, Barons, Gentlemen, Miniſters, Burgeſſes, and Commons; 'ſo ſeeing we are ſurprized by the Commiſſioner his Grace's ſudden 'departure, far contrary to his Majeſty's Indiction, and our Expecta- 'tion, we may extend this our Proteſtation, and add more reaſons 'thereunto in greater length and number, whereby we may fully 'clear, before God and Man, the equity of our Intentions, and law- 'fulneſs of our Proceedings: And upon the whole Premiſes, the 'aforeſaid Perſons, for themſelves, and in name aforeſaid, asked In- 'ſtruments.

'This was done in the High Church of *Glaſgow*, in publick Audi- 'ence of the Aſſembly, begun in preſence of the Commiſſioner his 'Grace, who removed and refuſed to hear the ſame to the end; the '28*th* day of *November*, and upon the Market-Croſs of *Glaſgow* the '29*th* day of the ſaid month, the Year of God 1638 reſpectivè.

After

14 *Caroli.*

After the Marqueſs had diſſolved the Aſſembly, the Council reſolved to write to his Majeſty a Letter of Thanks for thoſe gracious Proffers which he by his Commiſſioner had made at the Aſſembly, which they did as followeth, dated the 29*th* of *November.*

Moſt Sacred Soveraign,

IN Obedience to your Majeſty's Roial Commands, we have attended your Majeſty's Commiſſioner here at Glaſgow, *ſince the* 17*th of this Inſtant, and according to our bound Duty in ſo exigent Occaſion, have not bin wanting, with our humble and beſt Advices; and although we do admit the particular Relation of what paſt to his Graces ſelf as beſt known to him, yet we cannot for Truths-ſake be ſo ſilent, as not to acknowledg to your Majeſty, that never Servant did with more Induſtry, Care, Judgment, and Patience, go about the diſcharge of ſo great a Truſt: And albeit the ſucceſs hath not anſwered his deſires, neither yet his extraordinary pains, and (as we may confidently affirm) moſt dextrous and adviſed Courſes taken to compaſs the juſt Command of ſo gracious a King; yet his deſerving herein Merits to be remembred to Poſterity. And ſince your Majeſty hath bin pleaſed to renew to us your former Act of Grace, expreſſed in your Proclamation and Declaration anent the maintenance of the True Religion, and we in the defence and profeſſion thereof; We do all in humility and hearty acknowledgment of ſo great Goodneſs, return to your Majeſty the offer of our Lives and Fortunes in defence of your Sacred Perſon, and maintenance of your Roial Authority: And ſhall in all our Actions approve our ſelves your Majeſty's moſt loial Subjects and humble Servants.*

Sic Subſcribitur,

Traquair, Roxborough, Marre, Murray, Lithgow, Perth, Wigtoun, Kinghorn, Tullibardin, Haddington, Galloway, Annandail, Lauderdale, Kinnoul, Dumfreis, Southesk, Angus, Elphinſton, Napier, Dalyel, Hay, W. Elphinſton, Ja. Carmichael, Hamilton, Blackhall.

From *Glaſgow, Novemb.* 29. 1638.

Suddenly after which the Marqueſs received this enſuing Letter from the Arch-Biſhop of *Canterbury,* dated at *Lambeth,* December the third, 1638.

My very good Lord,

I Received your Lordſhip's Letters of November 27. *they came ſafe to me on* December 2, *after eight at Night. I was glad to ſee them ſhort; but their ſhortneſs is abundantly ſupplied by the length of two Letters, one for the Lord* Roſs, *and the other from the Dean. They have between them made their Word good to your Lordſhip, for they have ſent me all the Paſſages, from the beginning of the Aſſembly, to the time of the date of their Letters: And this I will be bold to ſay, Never were there more groſs Abſurdities, nor half ſo many in ſo ſhort a time, committed in*

An. 1638. *any publick Meeting; and for a National Assembly, never did the Church of Christ see the like.*

Besides, his Majesty's Service in General, that Church is much beholden to you, and so are the Bishops in their Persons and Callings; and heartily sorry I am, that the People are so beyond your expression furious, that you think it fit to send the two Bishops from Glasgow *to* Hamilton; *and much more, that you should doubt your own safety. My Lord, God bless your Grace with Life and Health to see this Business at a good end; for certainly, as I see the face of things now, there will very much depend upon it, and more than I think fit to express in Letters; nay, perhaps, more than I can well express if I would.*

I am as sorry as your Grace can be, that the King's Preparations can make no more hast; I hope you think (for truth it is) I have called upon his Majesty, and, by his command, upon some others, to hasten all that may be, and more than this I cannot do; but I am glad to read in your Letters, that you have written at length to his Majesty, that you may receive from himself a punctual Answer to all necessary Particulars; and I presently going to him to write largely to you, that you may not be in the dark for any thing.

But, my Lord, to meet with it again in your Letters, that you cannot tell whether this may be your last Letter, and that therefore you have disclosed the very thoughts of your heart, doth mightily trouble me. But I trust in God he will preserve you, and by your great Patience, Wisdom, and Industry, set his Majesty's Affairs (to your great honour) in a right posture once again; which if I might live to see, I would be glad to sing my Nunc dimittis.

I pray (my Lord) accept my thanks for the poor Clergie there, and particularly for the Bishop of Ross, *who protests himself most infinitely obliged to you.*

I heartily pray your Lordship to thank both the Bishop of Ross *and the Dean for their kind Letters, and the full account they have given me; but there is no particular that requires an answer in either of them, saving that I find in the Dean's Letter, that* Mr. Alex. Henderson, *who went all this while for a quiet and well-spirited Man, hath shewed himself a most violent and passionate Man, and a Moderator without Moderation. Truly (my Lord) never did I see any Man of that humour yet, but he was deep dyed in some Violence or other; and it would have bin a wonder to me if* Henderson *had held free. Good, my Lord, since you are good in the Active part, in the commixture of Wisdom and Patience, hold it out till the People may see the violence and injustice of them that would be their Leaders, and suffer not a Rupture till there be no Remedy. God bless you in all your ways, which is the daily Prayer of*

Lambeth, Dec. 3. 1638.

Your Lordships most faithful Friend, and humble Servant,

W. CANT.

He also received another Letter from the Arch-Bishop, dated the 7*th* of *December*, to the effect following.

My

14 *Caroli.*

My very good Lord,

THis day I have received your other Letter, with three Papers, viz. That which ſhews you have keeped within your Inſtructions, the Copy of the Proclamation which diſſolves the Aſſembly, and a Copy of the Councils Letter to the King; both which his Majeſty takes to be very good Service done for him, and commands me to give your Grace thanks in his Name, which I am very glad to do, and I do it heartily.

I have done, and do daily call upon his Majeſty for his Preparations; he proteſts he makes all the haſt he can, and I believe him; but the jealouſies of giving the Covenanters umbrage too ſoon, have made Preparations here ſo late.

The Aſſembly continue ſitting at *Glaſgow*.

After the King's Commiſſioner's departure from *Glaſgow*, they ſtill continued the Aſſembly, notwithſtanding the King's Diſſolution of it by Proclamation under pain of *Treaſon*; and then immediately the Earl of *Argile* began to declare himſelf openly the Head of it, and adjoined himſelf preſently to them, and ſat continually with them in the Aſſembly, although he were no Member of it, but ſat only as their chief Director and Countenancer.

In a ſhort ſpace of time they declared ſix General Aſſemblies to be null and void; they condemned all the *Arminian* Tenents, without defining what thoſe Tenents were: They deprived the Arch-Biſhop of St. *Andrews*, the Biſhop of *Galloway* and *Brechin*; They declared Epiſcopal Government to be inconſiſtent with the Law and Church of the Kingdom of *Scotland*, and ſo aboliſhed it for ever, though it did then, and ſtill ſtands (as the King ſaith in his Declaration) confirmed by many Acts both of Parliaments and Aſſemblies.

Here followeth one of the *Sentences* given in againſt Mr. *John Guthrie*, pretended Biſhop of *Murray*; Mr. *John Graham*, pretended Biſhop of *Orkney*; Mr. *James Fairly*, pretended Biſhop of *Liſmoir*; Mr. *Neil Campbell*, pretended Biſhop of the *Iſles*, viz.

Sentence pronounced againſt divers Biſhops.

'THe General Aſſembly having heard the Libels and Complaints 'given in againſt the foreſaid pretended Biſhops, to the Preſby-'tery of *Edinburgh*, and ſundry Preſbyteries within their Dioceſs, and 'by the ſaid Preſbyteries referred to this Aſſembly to be tried; The 'ſaid pretended Biſhops being lawfully cited, oftentimes called, and 'not compearing, proceeded to the cognition of the Complaints and 'Libels againſt them; and finding them guilty of the breach of the 'Cautions agreed upon in the Aſſembly at *Montroſe*, *Anno* 1600, for 'reſtricting of the Miniſter-Voter in Parliament, from incroaching 'upon the Liberties and Juriſdictions of this Kirk, which was ſet 'down with certification of Depoſition, Infamy, and Excommunica-'tion; and eſpecially for receiving Conſecration to the Office of Epiſ-'copacy, condemned by the Confeſſion of Faith, and Acts of this 'Kirk, as having no Warrant nor Fundament in the Word of God; 'but by virtue of this uſurped Power, and Power of the High-Com-'miſſion, preſſing the Kirk with Novations in the Worſhip of God; 'and for their refuſal to underly the trial of the reigning ſlander of 'ſundry other groſs Tranſgreſſions and Offences laid to their Charge:

'Therefore

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'Therefore the Aſſembly moved with Zeal to the Glory of God, and 'purging of this Kirk, ordains the ſaid pretended Biſhops to be de- 'poſed, and by theſe Preſents doth depoſe them, not only of the Of- 'fice of Commiſſionary to Vote in Parliament, Council, or Conven- 'tion in Name of the Kirk, but alſo of all Functions, whether of 'Pretended, Epiſcopal, or Miniſterial Calling; and likewiſe in caſe 'they acknowledg not this Aſſembly, reverence not the Conſtitution 'thereof, and obey not the *Sentence*, and make not their Repentance 'conform to the Order preſcribed by this Aſſembly, ordains them to 'be Excommunicated, and declared to be of theſe whom Chriſt com- 'mandeth to be holden by all and every one of the Faithful, as *Eth- 'nicks* and *Publicans*, and the Sentence of Excommunication to be 'pronounced upon their refuſal, in the Kirks appointed by any of 'theſe who are particularly named to have the charge of trying their 'Repentance or Impenitency; and that the execution of this *Sentence* 'be intimate in all the Kirks within this Realm, by the Paſtors of 'every particular Congregation, as they will be anſwerable to their 'Preſbyteries or Synods, or the next General Aſſembly, in caſe of 'negligence of the Preſbyteries and Synods.

The Declinator *and* Proteſtation *of the Arch-Biſhops and Bi- Biſhops of the Church of* Scotland, *and other their Adherents within that Kingdom, againſt the pretended General Aſſembly holden at* Glaſgow, *Novemb.* 21. 1638.

The Arch-Biſhops and Biſhops Proteſtation.

'WE Arch-Biſhops, Biſhops, and other under-ſubſcribers for our 'ſelves, and in the name and behalf of the Church of *Scot- 'land*. Whereas it hath pleaſed the King's Majeſty to indict a General 'Aſſembly of the Church to be kept at *Glaſgow* the 21*th* of *Novem- 'ber* 1638, for ſetling and compoſing the Diſtractions of the ſame; 'firſt, do acknowledg and profeſs, That a General Aſſembly, lawfully 'called, and orderly convened, is a moſt neceſſary and effectual mean 'for removing theſe Evils, wherewith the ſaid Church is infeſted, and for 'ſetling that Order which becometh the Houſe of God, and that we 'wiſh nothing more than a meeting of a peaceable and orderly Aſ- 'ſembly to that effect. Secondly, We acknowledg and profeſs, as be- 'cometh good Chriſtians and faithful Subjects, that his Majeſty hath 'Authority, by his Prerogative Roial, to call Aſſemblies, as is ac- 'knowledged by the Aſſembly at *Glaſgow* 1610, and Parliament 1612; 'and that it is not lawful to convene without his Majeſty's conſent 'and approbation, except we will put our ſelves in danger to be cal- 'led in queſtion for Sedition.

'Yet nevertheleſs, In ſundry reſpects we cannot but eſteem this 'Meeting at *Glaſgow* moſt unlawful and diſorderly, and their Pro- 'ceedings void aud null in Law, for theſe Cauſes and Reaſons fol- 'lowing.

'Firſt, Before his Majeſty's Roial Warrant to my Lord Commiſſio- 'ner's Grace, to induct a lawful free General Aſſembly, the uſurped 'Authority of the Tables (as they call it) by their Miſſives and In- 'ſtructions, did give order and direction for all Preſbyteries to elect 'and chuſe their Commiſſioners for the Aſſembly, and for ſeeking

'God's

'God's Bleſſing to it, to keep a ſolemn Faſt, *Sept.* 16. whereas his 'Majeſty's Warrant for indicting that Aſſembly was not publiſhed till 'the 22 of that Month; ſo that they preventing, and not proceeding 'by Warrant of Royal Authority, the pretended Commiſſioners be-'ing choſen before the Preſbyteries were authorized to make Election, 'cannot be reputed Members of a Lawful Aſſembly, muſt not only be 'indicted by lawful Authority, (as we acknowledg this to be) but 'alſo conſtituted of ſuch Members as are requiſite to make up ſuch a 'Body; for if according to the Indiction, none at all do Convene, 'or where the Clergy is called, there meet none but Laicks, or more 'Laicks than of the Clergy, with equal Power to judg and deter-'mine; or of ſuch of the Laicks and Clergy as are not lawfully Au-'thorized, or are not capable of that Employment by their Places; or 'ſuch as are legally diſabled to ſit and decide in an Aſſembly of the 'Church, a Meeting conſiſting of ſuch Members, cannot be thought 'a Free and Lawful Aſſembly by that Act of Parliament, *Ja.6. Par.3. 'cap.* 46. 1572. Every Miniſter who ſhall pretend to be a Miniſter 'of God's Word and Sacraments, is bound to give his aſſent and ſub-'ſcription to the Articles of Religion, contained in the Acts of our 'Soveraign Lord's Parliament, and in the preſence of the Arch-'Biſhop, Superintendent or Commiſſioner of the Province, give his 'Oath for acknowledging and recognoſcing of our Soveraign Lord 'and his Authority, and bring a Teſtimonial in Writing thereupon; 'and openly upon ſome *Sunday*, in time of Sermon, or publick Pray-'ers, in the Kirk where he ought to attend, read both the Teſtimo-'nial and Confeſſion, and of new make the ſaid Oath, within a month 'after his Admiſſion; under the pain, That every one that ſhall not 'do as is above appointed, ſhall, *ipſo facto*, be deprived, and all his 'Eccleſiaſtical Promotions and Livings be then vacant, as if he were 'then naturally dead: And that all inferior Perſons, under Prelats, be 'called before the Arch-Biſhops, Biſhops, Superintendents, and Com-'miſſioners of the Dioceſs or Province within which they dwell, as 'the Act bears.

Caroli 14.

2. 'All of the Clergy convened to this Aſſembly, pretend them-'ſelves to be Miniſters of God's Word and Sacraments; and having 'Benefices, or other Eccleſiaſtical Livings, yet nevertheleſs moſt of 'them have never in the preſence of the Arch-Biſhop, Biſhop, Super-'intendent, or Commiſſioner of the Dioceſs or Province, ſubſcribed 'the Articles of Religion contained in the Acts of Parliament, and 'given their Oath for acknowledging and recognoſcing our Soveraign 'Lord and his Authority, and brought a Teſtimonial thereof; and 'therefore they are, *ipſo facto*, deprived, and their Places void, as if 'they were naturally dead; and conſequently having no Place in the 'Church, nor Function in the Church, cannot be Commiſſioners to 'this Aſſembly: *Hoc maxime attento*, that the ſaid Perſons not only 'have never given their Oath for acknowledging his Majeſty's Autho-'rity, nor can ſhew any Teſtimonial thereupon, as they are bound by 'the ſaid Act; but alſo as Subjects having bin comprehended in the Re-'preſentative Body of this Kingdom, promiſed to acknowledg, obey, 'maintain, defend, and advance the Life, Honour, Safety, Dignity, 'Soveraign Authority, and Prerogative Roial of his Soveraign Ma-'jeſty, his Heirs and Succeſſors, and priviledges of his Highneſs's 'Crown, with their Lives, Lands, and Goods, to the uttermoſt of

'their

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'their Power, conſtantly and faithfully to withſtand all and whatſo-
'ever Perſons, Powers, and Eſtates, who ſhall preſume, preaſe, or
'intend any-wiſe to impugn, prejudg, hurt, or impair the ſame, and
'never to come in the contrary thereof, directly or indirectly for the
'time coming, as the Acts of Parliament, *Jac. 6. Parl.* 18. *Cap.* 1. *Car.*
'*Parl. cap.* 1. do report.

'And moreover, being obliged at their admiſſion, to give their
'Oath for performance of this Duty of their Allegiance, and to teſti-
'fy and declare on their Conſcience, That the King is the lawful Su-
'preme Governour, as well in Matters Eccleſiaſtical and Spiritual, as
'Temporal, and to aſſiſt all Juriſdiction, and defend Authority be-
'longing to his Majeſty, by Act of Parliament 1612. Yet notwith-
'ſtanding of the ſaid Bands, Acts, and Promiſes, whereby the ſaid
'Perſons are ſo ſtrictly bound to the performance of the Promiſes,
'his Majeſty having ordained by Act of Council, at *Hally-Rood-Houſe,*
'*Septemb.* 24. 1638. and Proclamation following thereupon, *That all*
'*his Majeſty's Lieges, of whatſoever Eſtate, Degree, or Quality, whe-*
'*ther Eccleſiaſtical or Temporal, ſhould ſwear and ſubſcribe the ſaid Con-*
'*feſſion, together with the General Band, for defending his Majeſty's*
'*Perſon and Authority, againſt all Enemies within this Realm and with-*
'*out*, have not only refuſed to ſubſcribe the ſame Band and Confeſſion,
'but have in their Sermons, and other Speeches, diſſwaded, deterred,
'impeded, and hindred others of Lieges to ſubſcribe the ſame, pub-
'lickly proteſted againſt the ſubſcription thereof; and thereupon can-
'not concur or convene lawfully to the making up of the Body of
'the Aſſembly of the Kirk, as being deprived and denuded of all
'Place and Function in the ſame.

3. 'A General Aſſembly was condeſcended unto, out of his Maje-
'ſty's gracious Clemency, and pious Diſpoſition, as a Roial Favour to
'thoſe that ſhould ſo acknowledg the ſame, and acquieſce in his gra-
'cious Pleaſure, and carry themſelves peaceably, as Loial and Dutiful
'Subjects, which the Commiſſioners directed to this Aſſembly, ſup-
'poſed to be of the Number that did adhere to the laſt Proteſtation
'made at *Edinburgh, Sept.* 1638. do not ſo account of and accept, as
'appears by the ſaid Proteſtation; whereby they proteſt that it ſhall
'be lawful for them, as at other times, ſo at this, to aſſemble them-
'ſelves, notwithſtanding any Impediment or Prorogation to the con-
'trary; as alſo by continuing their Tables and Meetings, diſcharged
'by Authority, refuſing to ſubſcribe the Band, according to his Ma-
'jeſty's and Council's Command, for maintaining his Majeſty's Roial
'Perſon and Authority, proteſting againſt the ſame, ſtill inſiſting with
'the Lieges to ſubſcribe the Band of Mutual Defence againſt all Per-
'ſons whatſoever, and remitting nothing of their former Proceedings,
'whereby his Majeſty's Wrath was provoked thereby; they are be-
'come in the ſame ſtate and condition wherein they were before his
'Majeſty's Proclamation and Pardon, and ſo forfeit the favour of this
'Aſſembly, and liberty to be Members thereof; and others of his
'Majeſty's Subjects may juſtly fear to meet with them in this Conven-
'tion; for that by Act of Parliament, *James 6. Parl.* 15. *cap.* 31.
'Prelacies being declared to be one of the three Eſtates of the King-
'dom; and by the Act of Parliament, *Jac. 6. Parl.* 8. *cap.* 130. all
'Perſons are diſcharged to impugn the Dignity and Authority of the
'three Eſtates, or any of them in time coming, under pain of
'Treaſon.

14 *Caroli.*

'Treaſon. And whereas the King by his Proclamation, declares Arch-'Biſhops and Biſhops to have Voices in the *General Aſſembly*, and calls 'them to the ſame for that effect, as conſtantly they have bin in uſe 'in all *Aſſemblies* where they were preſent, as appears by many Acts 'of the *General Aſſembly*, ordaining them to keep and aſſiſt at the 'ſame; as in the *Aſſembly* at *Edinburgh*, *Decemb.* 15. 1566. at *Edin-'burgh*, *March* 6. 1572. at *Edinburgh*, *May* 10. 1586. and by a Let-'ter written by the *Aſſembly*, *March* 6. 1573, to the Regent, ear-'neſtly deſiring his own, or his Commiſſioners preſence, and the Lords 'of the Council, and the Biſhops at the *Aſſembly*. They notwith-'ſtanding, by the ſaid Proteſtation, dated *Septemb.* 22. declared the 'Arch-Biſhops and Biſhops to have no Warrant for their Office in 'this Kirk, to be authorized with no lawful Commiſſion, and to have 'no Place nor Voice in this *Aſſembly*: and withal do arrogate to their 'Meetings a Soveraign Authority, to determine of all Queſtions and 'Doubts that may ariſe, contrary to the freedom of the *Aſſembly*, 'whether in Conſtitution and Members, or in the Matters to be trea-'ted, or in Manner and Order of proceeding; which how it doth 'ſtand with his Majeſty's Supremacy in all Caſes, over all Perſons, and 'in all Cauſes, we leave it to that Judgment whereunto it doth belong, 'and do call God and Man to Witneſs, if theſe be fit Members of an '*Aſſembly*, intended for the Order and Peace of the Church.

4. 'Giving, and not granting, That the Perſons aforeſaid directed 'Commiſſioners, in the Name of the Clergy, to this Meeting, were 'capable of that Authority, and that the ſaid Preſbyters had the Au-'thority to direct Commiſſioners to the *General Aſſembly*; yet have 'they now loſt and fallen from all ſuch Right, if any they had, in ſo 'far as they have depoſed the Moderators, who were lawfully ap-'pointed to govern them, by the Biſhops in their Synods, and elected 'others in their place, contrary to the Act of the *Aſſembly* at *Glaſ-'gow*, 1610, an Act of Parliament 1612, ordaining Biſhops to be 'Moderators at theſe Meetings; and in their abſence, the Miniſter 'whom the Biſhop ſhould appoint at the Synod. So theſe Meetings 'having diſclaimed the Authority of Biſhops, depoſed their lawful 'Moderatours, and chuſing others without Authority, cannot be 'eſteemed Lawful Convocations, that can have lawful Power of ſend-'ing out Commiſſioners with Authority to judge of the Affairs of this 'Church.

'And yet doth the nullity of the Commiſſions, flowing from ſuch 'Meetings, further appear in this, that they have aſſociate to themſelves 'a Laick Ruling-Elder (as they call him) out of every Seſſion and 'Pariſh; who being ordinarily the Laird of the Pariſh, or a Man of 'the greateſt Authority in the Bounds, doth over-rule in the Election 'of the ſaid Commiſſioners, both by his Authority and their Number, 'being more than the Miniſters; whereof ſome being ordinarily ab-'ſent, and five, or ſix, or ſo many of them put in Liſt, and removed, 'there remain but a few Miniſters to Voice to the Election; and in 'effect the Commiſſioners for the Clergy are choſen by Lay-Men, con-'trary to all Order, Decency, and Cuſtom obſerved in the Chriſtian 'World, in no wiſe according to this cuſtom of this Church which 'they pretend to follow, the Preſbyteries formerly never aſſociating 'to themſelves Lay-Elders in the Election of the Commiſſioners to 'the *General Aſſemblies*, but only for their aſſiſtance in Diſcipline,

An. 1638. ‘and correction of Manners, calling for them at ſuch times and occa-
‘ſions as they ſtood in need of their godly concurrence, declaring
‘otherwiſe their Meeting not neceſſary; and providing expreſly that
‘they ſhould not be equal, but fewer in number than the Paſtors, as
‘by Act of *Aſſembly* at St. *Andrews*, *April* 24. 1582. (where Mr. *An-*
‘*drew Melvill* was Moderator) doth appear; like-as theſe forty years
‘by-gone and upwards, long before the re-eſtabliſhment of Biſhops,
‘theſe Lay-Elders have not bin called at all to Preſbyteries. And by
‘the Act of *Dundee*, 1597, (whereby it is pretended that Preſbyte-
‘ries have Authority to ſend theſe Lay Commiſſioners) it doth no
‘way appear that thoſe Lay-Elders had any hand in chuſing of the
‘Miniſters; and this is the only Act of *Aſſembly* authoriſing Preſby-
‘teries to chuſe Commiſſioners to the *General Aſſembly:* Nor have
‘Lay-Elders ſat ordinarily in Preſbyteries, upon any occaſion, this
‘forty Years and upwards, nor ever had any Place or Voice in the
‘Election of Miniſters for the *General Aſſembly*; and conſequently
‘thoſe choſen by them to this *Aſſembly*, have no lawful Power nor
‘Authority: Beſides the Perſons Eccleſiaſtical, pretended to be au-
‘thoriſed Commiſſioners to this *Aſſembly*, have ſo behaved themſelves,
‘that juſtly they may be thought unworthy and uncapable of Com-
‘miſſion to a free and lawful Aſſembly.

‘Firſt, That by their railing and ſeditious Sermons and Pamphlets,
‘they have wounded the King's Honour and Soveraign Authority,
‘and animated his Lieges to Rebellion, averring that all Authority
‘Soveraign, is originally in the collective Body derived from thence
‘to the Prince; and that not only in caſe of negligence it is ſupple-
‘tive in the collective Body, as being communicate from the Commo-
‘nalty to the King, *cumulative* nor *privative*, but in caſe of Male ad-
‘miniſtration, to return to the collective Body; ſo that *Rex excidit*
‘*Jure ſuo*, and that they may refuſe Obedience.

‘Next, They are known to be ſuch as have either bin ſchiſmatically
‘refractory, oppoſite to good order ſetled in the Church and State, or
‘ſuch as having promiſed, ſubſcribed, and ſworn Obedience to their
‘Ordinary, have never made Conſcience of their Oath; or ſuch as
‘have ſworn, and accordingly practiſed, yet contrary to their Pro-
‘miſe and Practice, have reſiſted, to the contempt of Authority, and
‘diſturbance of the Church; or ſuch as are under the Cenſures of
‘this Church, or convened, or at leaſt deſerving to be convened, be-
‘fore the Ordinaries, or a lawful *General Aſſembly*, for divers tranſ-
‘greſſions deſerving deprivation.

‘As firſt, for uttering in their Sermons, raſh and irreverent Speeches in
‘the Pulpit againſt his Majeſty's Council & their Proceedings, puniſhable
‘by deprivation, by the Act of the *Aſſembly* at *Edinburgh*, *May* 22, 1590.

‘Next for reproving his Majeſty's Laws, Statutes, and Ordinances,
‘contrary to the Act of the *Aſſembly* at *Perth*, May 1. 1596.

‘Thirdly, For expreſſing Mens Names in Pulpits, or deſcribing
‘them lively to their reproach, where there was no notorious fault,
‘againſt another Act of the ſame *Aſſembly*.

‘Fourthly, For uſing Applications in their Sermons, not tending to
‘the Edification of their preſent Auditory, contrary to another Act
‘of the ſame *Aſſembly*.

‘Fifthly, For keeping Conventions not allowed by his Majeſty,
‘without his knowledg and conſent, contrary to another Act of the
‘ſame *Aſſembly*. ‘Sixthly,

14 *Caroli.*

'Sixthly, For receiving of People of other Miniſter's Flocks to the 'Communion, contrary to Order, Acts of *Aſſemblies* and *Councils.*

'Seventhly, For intruding themſelves into other Mens Pulpits, 'without Calling and Authority.

'Eighthly, For uſurping the Authority to convent their Brethren, 'and proceed againſt them to the Cenſures of Suſpenſion and Depri- 'vation.

'Ninthly, For preſſing the People to ſubſcribe a Covenant, not al- 'lowed by Authority; and oppoſing and withſtanding the ſubſcribing 'of a Covenant offered by his Majeſty, and allowed by the Council; 'beſides many perſonal Faults and Enormities, whereof many of 'them are guilty, which in charity we forbear to expreſs; but hereby 'it doth appear, how unfit theſe Perſons are to be Members of a free 'and lawful *Aſſembly.*

7. 'Nor doth it ſtand with Reaſon, Scripture, or Practice of the 'Chriſtian Church, that Lay-Men ſhould be authoriſed to have deci- 'ſive Voice in a *General Aſſembly*, in that Act of *Dundee*, 1597, 'whereby theſe Elders pretend to have this place; there is no War- 'rant expreſſed for them to deliberate and determine: Their preſence 'and aſſiſtance we approve, being allowed and authoriſed by the 'Prince, the King's Majeſty preſent in Perſon, or by his Delegates; 'we hold moſt neceſſary to ſee all things orderly and peaceably done, 'and that he have the chief hand in all Determinations and Delibera- 'tions. Nor do we refuſe that any moderate or intelligent Man may 'make remonſtrance of his Opinion, with the Reaſons of it, in that 'way that becometh him in a National *Aſſembly*, due reverence being 'kept, and confuſion avoided; but that any Lay-Men, except Dele- 'gates by Soveraign Authority, ſhall preſume to have a definitive and 'deciſive Voice, we eſteem it to be intruſion upon the Paſtoral 'Charge, and without Warrant; may we not therefore entreat my 'Lord Commiſſioner his Grace, in the words of the Fathers of the 'fourth General Council at *Chalcedon*, *Mitte foras ſuperfluos?* Nor 'will a pious Prince be offended with it, but with *Theodoſius* the 'Younger will ſay, *Illegitimum eſt eum qui non ſit, in ordine Sanctiſſi- 'morum Epiſcoporum Eccleſiaſticis immiſceri tractatibus.* And *Pulcheria* 'the Empreſs commanded *Strategus*, *Ut Clerici, Monachi & Laici vi 'repellerentur, exceptis paucis illis quos Epiſcopi ſecum duxerunt.* Upon 'this reſpect was *Martinus* in that Council of *Chalcedon* moved to ſay, '*Non eſſe ſuum, ſed Epiſcoporum tantum ſub ſcribere.*

8. 'If theſe pretended Commiſſioners, both Lay and Eccleſiaſtical, 'were lawfully authoriſed, (at it is evident they are not) and for 'none other Cauſe declinable, yet the Law doth admit, that a Judg 'may juſtly be declined who is probably ſuſpected; and of all Probabi- 'lities this is the moſt pregnant, when the Judg, before he come to 'Judgment, doth give Sentence of theſe things he hath to Judg. 'This made our Reformers Proteſtation againſt the Council of *Trent* 'valid, and their not compearing juſtifiable; becauſe Pope *Leo* the '10*th* had pre-condemned *Luther*, as appeared by his Bull dated '*Junii* 8. 1520. renewed by *Paul* the third, dated in *Auguſt* 1535. 'This was the cauſe why *Athanaſius* would not give his appearance at 'ſome Councils, nor *Hoſius* of *Corduba*, nor *Maximus* Patriarch of '*Conſtantinople*; But ſo it is, the moſt part, if not all of the ſaid Com- 'miſſioners directed to this Meeting, have pre-condemned Epiſcopal

An. 1638. 'Government, and condemned, at leaſt ſuſpended, obedience to the 'Acts of the *General Aſſembly* and *Parliament*, concerning the five Ar- 'ticles of *Perth*, have approved their Covenant as moſt neceſſary to 'be embraced of all in this Kingdom; and have not only given Judg- 'ment of theſe things before-hand, but by moſt ſolemn Oaths have 'bound themſelves to defend, and ſtand to the ſame, as doth appear 'by their Covenant, Petitions, Proteſtations, Pamphlets, Libels, 'and Sermons, and therefore by no Law nor Equity can theſe pretended 'Commiſſioners be admitted to determin in this Meeting concerning 'theſe Perſons and Points, which before-hand they have ſo unjuſtly 'condemned.

'Furthermore, with no Law nor Reaſon can it ſubſiſt, that the 'ſame Perſons ſhall be both Judges and Parties. And we appeal to the 'Conſciences of all honeſt Men, if all, at leaſt the greateſt part of the 'pretended Commiſſioners, have not declared themſelves Party to 'the Arch-Biſhops and Biſhops of this Church; for in that they have 'declined the Biſhops to be their Judges, as being their Party, (as 'their Declinators, Petitions, Declarations, and Proteſtations do 'bear) have they not, *ſimul & ſemel, & ipſo facto*, declared them- 'ſelves to be Party againſt the Biſhops; whom they have not only de- 'clined, but perſecuted by their Calumnies and Reproaches, vented 'by Word and Wit, in publick and in private, by invading their 'Perſons, oppoſing and oppreſſing them by ſtrength of an unlawful 'Combination; for the ſubſcribing and ſwearing whereof, they have 'by their own Authority, indicted and kept Faſts, not only in their 'own Churches, but where worthy Men refuſed to be acceſſary to 'theſe diſorderly and impious Courſes: They have (by aid of the 'unruly Multitude) entred their Churches, uſurped upon their Char- 'ges, reading, and cauſing to be read that unlawful Covenant, by 'threatning, and menacing, compelling ſome (otherwiſe unwilling) out 'of juſt fear, to ſet their hands to it, by proceſſing, ſuſpending, and 'removing obedient and worthy Miniſters from their Places, by the 'uſurped Authority of their Table and Preſbyteries.

An Index of the Principal Acts of the Aſſembly at Glaſgow, 1638.

SUndry Proteſtations betwixt the Commiſſioner his Grace, and the Members of the Aſſembly.

Mr. *Archibald Johnſton's* admiſſion to be Clerk, and his Production of the Regiſters of the Church, which were preſerved by God's wonderful Providence.

An Act diſallowing any private Conference, and conſtant *Aſſeſſors* to the Moderator.

An Act ratifying the *Authentickneſs of the Regiſters*, with the Reaſons thereof.

An Act regiſtrating his *Majeſty's Will*, given in by his Commiſſioner.

An Act bearing the *Aſſemblies Proteſtation* againſt the Diſſolution thereof.

An Act *depoſing* Mr. *David Mitchel*, Miniſter at *Edinburgh*.

An Act *depoſing* Mr. *Alexander Gloadſtoun* Miniſter at St. *Andrews*.

An

14 Caroli

An Act *annulling the ſix late Aſſemblies* holden at *Linlithgow*, 1606, and 1608. at *Glaſgow* 1610. at *Aberdeen* 1616. at St. *Andrews* 1617. at *Perth* 1618; with the Reaſons of the Nullity of every one of them.

An Act declaring the *Nullity of the Oath*, exacted by Prelats from Intrants, *id eſt*, ſuch as are inſtituted to Benefices.

An Act *depoſing* Mr. *John Creichton* Miniſter at *Paiſlay*.

An Act condemning the *Service-Book*.

An Act condemning the *Book of Canons*.

An Act condemning the *Books of Ordination*.

An Act condemning the *High-Commiſſion*.

The Sentence of *Depoſition* and Excommunication of the ſometime pretended Biſhops of St. *Andrews*, *Glaſgow*, *Roſs*, *Galloway*, *Brichen*, *Edinburgh*, *Dumblane*, *Aberdeen*.

The Sentence of *depoſition* againſt the ſometime pretended Biſhops of *Murray*, *Iſles*, *Argile*, *Orknay*, *Cathneſs*, and *Dunkell*.

The large Act clearing the *Meaning of the Confeſſion of Faith*, made *Anno* 1580. as abjuring and removing Epiſcopacy.

An Act declaring the *Five Articles* to have bin abjured, and to be removed.

Sentence of *depoſition* againſt Mr. *Thomas Forreſter*.

Sentence of *depoſition* againſt Mr. *William Ahannan*.

Sentence of *depoſition* againſt Mr. *Robert Hamiltoun* Miniſter at *Glasford*.

Sentence of *depoſition* againſt Mr. *Thomas Mackeney*.

Act anent the Preſbyteries of *Auchterardours* preſent Seat at *Aberuſkene* for the time.

Act reſtoring Preſbyteries, Provincial and General Aſſemblies to their Conſtitution of Miniſters and Elders, and their Power and Juriſdiction contained in the *Book of Policy*.

Act erecting Preſbyteries in *Argile*.

Act referring to the Preſbyteries the conſideration of their Meetings.

Act concerning the *Viſitation* of particular Kirks, Schools, and Colleges.

Act againſt *Non-Reſidents*.

Act concerning planting *Schools* in the Country.

Act concerning the Power of Preſbyters, admiſſion of Miniſters, and chuſing of their Moderators.

Reference to the Preſbyteries anent the competency of Pariſhioners and Preſbyteries.

Act concerning the *entry* and converſation of Miniſters, ratification of the *Act* 1598.

Act of Reference to Preſbyteries, concerning the defraying of the Expences of the Commiſſioners.

Act of Reference concerning the repreſſing of Popery and Superſtition.

Act of Reference to the Preſbyteries, concerning the more frequent celebration of the *Lord's Supper*.

Act of Reference concerning Markets on *Munday* within Burroughs.

Act againſt the Prophanation of the *Sabbath*, for want of Afternoons Exerciſe.

Act

An. 1638.

Act againſt the frequenting the company of *Excommunicated Perſons.*

Act ſetting down the Roll of Provincial Aſſemblies, and ſome Orders thereanent.

Act of Reference againſt *Milnes* and *Salt-pans.*

Act anent the Order of Receiving the Repentance of any *Penetent Prelates.*

Act anent the Excommunication of the Miniſters depoſed who do not obey their Sentence.

Act againſt thoſe who ſpeak or write againſt the *Covenant*, this Aſſembly, and Conſtitutions thereof.

Act of Reference anent the Voicing in the *Kirk* Seſſions.

Act condemning Chapters, Arch-Deans, Preaching Deacons, and ſuch like Popiſh Traſh.

Act againſt the obtruding of *Paſtors* upon People.

Act againſt *Marriage* without Proclamation of Banes.

Act againſt *Funeral Sermons.*

Act anent the Trial of Expectants; [that is ſuch as are not poſſeſſed of any Benefice.]

Act anent the admiſſion of Mr. *Archibald Johnſton* to be Advocate, and Mr. *Rob. Dalgleiſh* to be Agent for the Kirk.

Act anent the Tranſplantation of Mr. *Alexander Henderſon* from *Leuchars* to *Edinburgh.*

Act of Reference to the Preſbyteries and Provincial Aſſemblies, to take order with *Salmon-Fiſhing.*

Act of tranſporting Mr. *Andrew Cart* from *Pitſhgo* to *Newbotle.*

Act condemning all *Civil Offices* in the Perſons of Miniſters ſeparate to the Goſpel, as to be Juſtice of Peace, ſit in Seſſion or Council to Vote or Ride in Parliament.

Act concerning a *Commiſſion* for Complaints about *Edinburgh.*

Another *Commiſſion* to ſit at *Jedburgh.*

Another *Commiſſion* to ſit at *Erwin.*

Another *Commiſſion* to ſit at *Dundee.*

Another *Commiſſion* to ſit at the *Channeries* and *Foreſts.*

Another *Commiſſion* to ſit at *Kircubright.*

A *Commiſſion* for viſitation of the College of *Aberdeen.*

A *Commiſſion* for viſitation of the College of *Glaſgow.*

Act againſt *Salmon-fiſhing*, and going of *Milnes* on the Sabbath-day.

Act appointing the Commiſſioners to attend the Parliament, and Articles which they are to repreſent in the Name of the Kirk to the Eſtates.

Act ordaining the Commiſſioners from Preſbyteries and Burroughs, preſently to get under the Clerk's hand, an Index of the Acts, and hereafter a full Extract of them, which they are bound to take back from the Aſſembly to the Preſbyteries and Burroughs.

Act ordaining the Preſbyters to intimate in their ſeveral Pulpits, the *Aſſemblies* Explanation of the *Confeſſion of Faith*, the Act againſt Epiſcopacy, the Act againſt the Five Articles, the Act againſt the Service-Book, Book of Canons, Book of Ordination, the High-Commiſſion, the Acts of Excommunication and Depoſition againſt ſome Prelates; an Act of Depoſition only againſt ſome others of them.

An

14 *Caroli.*

An *Act* diſcharging *Printers* to print any thing, either anent the Acts of the Proceeds of this *Aſſembly*, or any Treatiſe which concerns the Kirk, without a Warrant under Mr. *Archibald Johnſton*'s hand, as Clerk of the *Aſſembly*, and Protector of the *Kirk*, and that under the pain of all Eccleſiaſtical Cenſure to be intimated with other Acts.

Act ordaining the *Covenant* ſubſcribed in *February*, now to be ſubſcribed with the *Aſſemblies* Declaration.

Act diſcharging all Subſcription to the *Covenant*, ſubſcribed by his Majeſty's Commiſſioner, and the Lords of Council.

Act ordaining all Preſbyteries to keep a ſolemn *Thanksgiving* in all Pariſhes, for God's Bleſſing and good Succeſs on this *Aſſembly*, upon the firſt convenient *Sabbath*.

Act againſt thoſe who are *malicious* againſt this Church; Decliners or Diſobeyers of the Acts of this *Aſſembly*.

Act warranting the Moderator and Clerk to give out Summons upon Relievant Complaints, againſt Parties to compere before the next *Aſſembly*.

Act renewing the Privileges of yearly *General Aſſemblies*, and oftner (*pro re nata*) and appointing the third *Wedneſday* in *July* next in *Edinburgh* for the next *General Aſſembly*.

Act that none be choſen Ruling-Elders to ſit in Preſbyteries Provincial, or *General Aſſemblies*, but thoſe who ſubſcribe the *Covenant*, as it is now declared; and acknowledges the Conſtitution of this *Aſſembly*.

Act to tranſport Mr. *Robert Blair*, from *Air* to St. *Andrews*.

Act for repreſenting to the *Parliament*, the neceſſity of the ſtanding of the Prolocutor's Place for the *Kirk*.

There are many leſs Principal Acts omitted, ſo the *Index* is not fully perfect.

A. Johnſton.

CHARLES by the Grace of God, King of *Scotland*, *England*, *France*, and *Ireland*, Defender of the Faith. To all Our Lovits, Heraulds, Purſevants, Our Sheriffs in that part conjunctly and ſeverally ſpecially conſtitute, Greeting.

Whereas for the removing of the Diſorders which had happened of late within this our Kingdom, and for ſetling of a perfect Peace in the Church and Common-Wealth thereof; We were pleaſed to cauſe indict a General Aſſembly to be holden at Glaſgow, the one and twentieth of November laſt: And for our Subjects their better content and aſſurance that they ſhould be freed of all ſuch things, as by their Petitions and Supplications given in to the Lords of our Privy-Council, they ſeemed to be grieved at, We in ſome ſort prevened the Aſſembly, by diſcharging, by our Proclamation, the Service-Book, Book of Canons, and High-Commiſſion; freed and liberate our Subjects from the practiſing of the Five Articles; eximed all Miniſters at their entry, from giving any other Oath than that which is contained in the Act of Parliament, made all

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all Persons, both Ecclesiastical and Civil, liable to the Censure of Parliament, General Assembly, or any other Judicatory competent, according to the nature of their Offence, had declared all by-gone Disorders absolutely forgotten and forgiven at last, for securing to all Posterity the Truth and Liberty of Religion, did command the Confession of Faith, and Band for maintenance thereof, and of Authority in defence of the same, subscribed by our dear Father and his Houshold, in Anno 1580, to be renewed and subscribed again by our Subjects here. And albeit that this our gracious and pious Command, instead of Obedience and Submission, rancountred open and publick Opposition and Protestation against the same: And that they continued their daily and hourly guarding and watching our Castle at Edinburgh, suffering nothing to be imported therein but at their discretion, stopping and impeding any importation of Ammunition, or other Necessaries whatsoever to any of our Houses within this Kingdom; denying to Us, their Soveraign Lord, that Liberty and Freedom which the meanest of them assume to themselves (an Act without President or Example in the Christian World) like as they spared not boldly and openly to continue their Conventions and Council-Tables, of Nobility, Gentry, Ministers and Burgesses within the City of Edinburgh; where not regarding the Laws of the Kingdom, without Warrant of Authority, they convened, assembled, and treated upon Matters, as well Ecclesiastical as Civil; sent their Injunctions and Directions throughout the Country to their Subordinate Tables, and other Under-Ministers appointed by them for that effect. And under colour and pretext of Religion, exercising an unwarranted Liberty, required Obedience to their unlawful and illegal Directions, to the seen prejudice of Authority, and lawful Monarchial Government. And notwithstanding it was evidently manifest, by the illegal and unformal course taken in the Election of the Commissioners for the Assembly, whereof some of them were under the Censure of this Church, some under the Censure of the Church of Ireland; some long since banished for open and avowed teaching against Monarchy, others of them suspended; and some admitted to the Ministry contrary to the form prescribed by the Laws of this Kingdom, others of them Rebels, and at the Horn; some of them confined, and all of them by Oath and Subscription bound to the overthrow of Episcopal Government. And by this and other their under-hand working, and private Informations and Perswasions, have given just ground of suspition of their partiality, and so made themselves unfit Judges of what concerneth Episcopacy. And also albeit it was sufficiently cleared by the peremptory and illegal procedures of the Presbyteries, who at their own hand, by order of Law, and without due form of Process, thrust out Moderators lawfully established, and placed others, whom they found most inclinable to their turbulent Humours, associate to themselves, for chusing of the Commissioners to the Assembly, a Laick-Elder out of each Parish; who being in most places equal, if not more in number than the Ministry, made choice both of the Ministers, who should be Commissioners from the Presbyteries, as also of a Laick-Elder, (which in time will prove to be of a dangerous consequence, and import a heavy burden to the Liberty of the Church and Church-men) being more therein directed by the Warrants of the foresaid pretended Tables,

Tables, than by their own Judgments; as appeared by the ſeveral Inſtructions ſent from them, (far contrary to the Laws of this Country, and lowable cuſtom of this Church) ſome whereof were produced and exhibited by our Commiſſioner, and publickly read: one whereof, direct to the Noblemen and Barons of each Presbytery, doth, among many other odd Paſſages, require diligence, leſt (ſay they) by our own ſillineſs and treachery, we loſe ſo fair an occaſion of our Liberty, both Chriſtian and Civil; a ſtrange phraſe to proceed from dutiful or loial-hearted Subjects. The other to the Moderator of the ſeveral Presbyteries, under the Title of Private Inſtructions, Auguſt 27. 14 *Caroli.*

Firſt containeth, That theſe private Inſtructions ſhall be diſcovered to none, but to Brethren well-affected to the Cauſe.

Secondly, Order muſt be taken, That none be choſen Ruling-Elders but Covenanters, and thoſe well-affected to the Buſineſs.

Thirdly, That where the Miniſter is not well-affected, the Ruling-Elder be choſen by the Commiſſioners of the Shire, and ſpoken to particularly for that effect.

Fourthly, That they be careful that no Chappel-men, Chaptermen, or Miniſter Juſtice of Peace, be choſen, although Covenanters, except they have publickly renounced or declared the unlawfulneſs of their places.

Fifthly, That the Ruling-Elders come from every Church in equal number with the Miniſters; and if the Miniſter oppoſe, to put themſelves in poſſeſſion, notwithſtanding of any oppoſition.

Sixthly, That the Commiſſioner of the Shire cauſe convene before him the Ruling-Elders of every Kirk choſen before the day of the Election, and enjoin them upon their Oath, That they give vote to none but to thoſe who are named already at the Meeting at Edinburgh.

Seventhly, That where there is a Nobleman in the bounds of the Presbytery, he be choſen; and where there is none, there be choſen a Baron, or one of the beſt Quality, and he only a Covenanter.

Eighthly, That the ableſt Man in every Presbytery be provided to diſpute de poteſtate ſupremi Magiſtratus in Eccleſiaſticis, præſertim in convocandis Conciliis, &c.

Whereby it is moſt evident what Delimitations, indirect and partial Courſes, and dangerous Propoſitions have bin uſed in the Preparations and Elections to this pretended Aſſembly. By which unlawful doings, although We had ſufficient Reaſon to have diſcharged the meeting of the ſaid Aſſembly, yet We were pleaſed patiently to attend the ſame, ſtill hoping, that when they were met together, by the preſence of our Commiſſioner, and aſſiſtance of ſome well-affected Subjects who were to be there, and by their own ſeeing the real performance of what was promiſed by our Proclamation, they ſhould have bin induced to return to the due Obedience of Subjects: But when We perceived that their turbulent Diſpoſitions did increaſe, as was manifeſt by their repairing to the ſaid pretended Aſſembly, with great Troops and Bands of Men, all boddin in fear of War, with Guns and Piſtolets, contrary to the Laws of this Kingdom, and in high contempt of our Proclamation at Edinburgh the 16th day of November laſt. And alſo by the peremptory refuſing to the Aſſeſſors authorized by Us (although fewer in number than Our deareſt

An. 1638. Father was in use to have) the power of voting in this Assembly, as formerly they had done in all others; openly averring, That We, nor Our Commissioner, had no further Power there than the meanest Commissioner of their number. And by their partial and unjust refusing, and not suffering to be read the Reasons and Arguments given in by the Bishops, and their adherents to our Commissioner, why they ought not to proceed to the Election of a Moderator, neither yet to the trying and admitting of the Commissioners before they were heard, though in our Name they were earnestly required thereto by our Commissioner: And notwithstanding that our Commissioner, by Warrant from Us, gave in under his hand a sufficient Declaration of all that was contained in our late Proclamation, bearing likewise Our pleasure of the Registration of the same in the Books of Assembly, for all assurance of the Truth and Purity of Religion to all Our good Subjects, as doth clearly appear by the Declaration it self, whereof the tenour follows.

The King's Majesty being informed, That many of his good Subjects have apprehended, that by the introducing of the Service-Book, and Book of Canons, the inbringing of Superstition hath bin intended, Hath bin graciously pleased to discharge, like-as by these he doth discharge the Service-Book, and Book of Canons, and the practice of them, and either of them; and annuls and rescinds all Acts of Council, Proclamations, and other Acts and Deeds whatsoever, that have bin made or published for establishing them, or either of them; and declares the same to be null, and to have no force nor effect in time coming. The King's Majesty, as he conceived, for the ease and benefit of the Subject, established the High Commission, and thereby Justice might be administred, and the Faults and Errors of such Persons as are made liable thereto, taken order with, and punished with the more conveniency, and less trouble to the People. But finding his gracious Intention therein to be mistaken, hath bin pleased to discharge, like-as by these he doth discharge the same, and all Acts and Deeds whatsoever made for establishing thereof. And the King's Majesty being informed, that the urging of the five Articles of Perth-Assembly hath bred distraction in the Church and State, hath bin graciously pleased to take the same into his Royal Consideration, and for the Quiet and Peace of this Country, hath not only dispensed with the practice of the said Articles, but also discharged all and whatsoever Persons from urging the practice thereof, upon either Laick or Ecclesiastical Person whatsoever; and hath freed all his Subjects from Censure and Pains, whether Ecclesiastical or Secular, for not urging, practising, or obeying them, or any of them, notwithstanding of any thing contained in the Acts of Parliament, or General Assembly in the contrary. And his Majesty is further contented, that the Assembly take the same so far to their consideration, as to represent it to the next Parliament, there to be ratified as the Estates shall find fitting. And because it hath bin pretended, that Oaths have bin administred different from that which is set down in the Acts of Parliament, his Majesty is pleased to declare by me, That no other Oath shall be required of any Minister at his entry, but that which is set down in the Act of Parliament. And that it may appear how careful his Majesty is, that no Corruption nor Innovation shall creep into this Church, neither yet any Scandal, Vice, or Fault of

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any Person whatsoever, censurable or punishable by the Assembly, go along unpunished, his Majesty is content to declare by me, and assure all his good People, That General Assemblies shall be kept so oft, and as oft as the Affairs of this Church shall require. And that none of his good Subjects may have cause of Grievances against the proceedings of the Prelates, his Majesty is content that all and every one of the present Bishops, and their Successors, shall be answerable, and accordingly from time to time censurable, according to their merits by the General Assembly. And to give all his Majesty's good People full assurance that he never intended to admit any alteration or change in the true Religion professed within this Kingdom; and that they may be truly and fully satisfied of the reality of his Intentions and integrity of the same, his Majesty hath bin pleased to require and command all his good Subjects, to subscribe the Confession of Faith, and Band for maintenance thereof, and of his Majesty's Person and Authority, formerly signed by his dear Father in Anno 1580; And now also requireth all these of the present Assembly to subscribe the same. And it is his Majesty's Will, That this be insert and registrate in the Books of Assembly, as a Testimony to Posterity, not only of the sincerity of his Intentions to the said true Religion, but also of his Resolutions to maintain and defend the same, and his Subjects in the profession thereof. *Caroli* 14.

Which Declaration was by our special command and direction given in, and subscribed by our Commissioner, upon protestation made by him, that his assenting to the registration hereof, should be no approbation of the lawfulness of this Assembly, nor of any of the Acts or Deeds done, or to be done therein. And finding them in like sort no ways to be satisfied therewith, and that nothing else was able to give them contentment, except at their own pleasure they were permitted to overthrow all Episcopal Government in the Church, and thereby to abrogate our publick Laws, standing in vigour by the space of many Years by-gone, and to alter the Fundamental Government of this Kingdom, in taking away one of the three Estates, contrary to express Acts of Parliament. And lest the continuance of their Meetings might have produced other the like dangerous Acts so derogatory to Royal Authority, We were forced, for preventing thereof, and for the Reasons and Causes above-mentioned, and divers others importing true Monarchial Government, to dissolve and break up the said pretended Assembly, and to discharge them of all farther meeting, treating, and concluding any thing therein. And yet in that calm and peaceable way, as our Commissioner before his removing desired their pretended Moderator for that time to have said Prayer, and so concluded that days Session, that so they might have had time to think upon the just Reasons of his refusing to assist, or be any longer present at the said pretended Assembly, and of the Causes moving Us to the dissolving thereof: And notwithstanding his earnest urging the same, and being willing to return the next morning to hear their Answer; in place of all other satisfaction to his so reasonable and moderate desires, it was refused, and met with a Protestation of an high and extraordinary strain, thereby presuming to cite and call our Council in question, for their dutiful assistance and obedience to Us and Our Commissioner. And finding their Disobedience thus to increase, We were constrained to discharge them of new

An. 1638. again the next day thereafter, by publick Proclamation, under the pain of Treason. And albeit that their contumacy is such as hath not bin heard of in former Times, yet they shall never move Us to alter the least Point or Article of that We have already declared by Proclamation or Declaration under our Commissioner's hand. All which was publickly read, and by our Commissioner required to be insert and registrate in the Books of Assembly, therein to remain as a Testimony to Posterity, not only of the sincerity of our Intentions to the True Religion, but also of our Resolution to maintain and defend the same, and our Subjects in the profession thereof: And perceiving likewise that in contempt of our Proclamation at Glasgow, the 29th of November, they go still on to convene, meet, and to make illegal and unwarrantable Acts, We have conceived it fitting to forwarn all our good Subjects of the Danger that they may incur by being ensnared by these their unlawful Procedures. And to this purpose do not only liberate and free them from all Obedience to any of the pretended Acts, made, or to be made at the said pretended Assembly or Committees direct therefrom, but do also free them from all pain and censure which the said pretended Assembly shall inflict upon them, or any of them. And therefore do discharge and prohibit all our Subjects, That they, nor none of them, acknowledg nor give Obedience to any pretended Acts nor Constitutions, made, or to be made at the said pretended Meetings, under all highest pains. And We command, charge, and inhibit all Presbyteries, Sessions of Kirks, Ministers within this Realm, that none of them presume, nor take upon hand privately nor publickly in their Sessions and Meetings, nor in their Conferences, Sermons, nor no other manner of way, to authorize, approve, justify, or allow the said unlawful Meeting, or Assembly at Glasgow, neither yet to make any Act thereupon, nor to do any other thing private or publick, which may seem to countenance the said unlawful Assembly, under the pain to be repute, holden, and esteemed, and pursued as guilty of their unlawful Meeting, and to be punished therefore with all rigour. And sicklike We command all and sundry Noblemen, Barons, Gentlemen, Magistrates, and all other our Lieges who shall happen to be present and hear any Ministers, either in publick or private Conferences or Speeches, or in their Sermons, to approve and allow the said unlawful Assembly, rail and utter any Speeches against Our Royal Commandments, or Proceedings of Us, or Our Council, for punishing or suppressing such Enormities, that they make Relation and Report thereof to Our Council, and furnish Probation, to the effect the same may be accordingly punished, as they will answer to Us thereupon; certifying them who shall hear and conceal the said Speeches, that they shall be esteemed as allowers of the same, and shall accordingly be taken order with, and punished therefore without favour. And to this effect We likewise straightly Charge and Command all Judges whatsoever within this Realm, Clerks and Writers, not to grant or pass any Bill, Summons, or Letters, or any other Execution whatsoever, upon any Act or Deed proceeding from the said pretended Assembly, and all keepers of the Signet from signeting thereof, and that under all highest pains. And because We gave Order and Warrant to Our Commissioner to make open Declaration, not only of our Sense, but even of the

true

14 *Caroli.*

true meaning of the Confeſſion of Faith, in Anno 1580; by which it may clearly appear, that as we never intended thereby to exclude Epiſcopacy, ſo by no right conſtruction can it be otherwiſe interpreted, as is more than evident by the Reaſons contained in the ſaid Declaration, and many more, which for brevity (the thing in it ſelf being ſo clear) are omitted; wherefore We do not only prohibit and diſcharge all our Subjects from ſubſcribing any Band, or giving any Writ, Subſcription, or Oath to, or upon any Act or Deed that proceeds from the foreſaid pretended Aſſembly, but alſo to require them not to ſubſcribe nor ſwear the ſaid Confeſſion, in no other ſenſe than that which is contained in the ſaid Declaration, and manifeſtly emitted by our Commiſſioner, under all higheſt pains. And that none of our good Subjects, who in their Duty and bound Obedience to Us, ſhall refuſe to acknowledg the ſaid pretended Aſſembly, or any of the pretended Acts, Conſtitutions, Warrants, or Directions proceeding therefrom, may have juſt ground of fear of danger or harm by doing thereof, We do by theſe promiſe, and upon the Word of a King oblige our Selves, by all the Roial Authority and Power wherewith God hath endowed Us, to protect and defend them, and every one of them in their Perſons, Fortunes, and Goods, againſt all and whatſoever Perſon, or Perſons, who ſhall dare or preſume to call in queſtion, trouble, or any ways moleſt them, or any of them therefore. And our Will is, and We charge you ſtraitly and command, That incontinent theſe our Letters ſeen, ye paſs, and make publication hereof by open Proclamation, at the Market-Croſs of Edinburgh, and other places needful, where-through none pretend ignorance of the ſame.

Given from Our Court at *Whitehall*, the 8*th* day of *December*, and of Our Raign the 14*th* Year, 1638.

Per Regem.

After the publiſhing of this Proclamation, the Aſſembly at *Glaſgow* made a Proteſtation at the Market-Croſs at *Edinburgh*, the 18*th* of *December* 1638. which by reaſon of the very great length of it, and the many repetitions of former Paſſages, we forbear to trouble the Body of the *Story* or the *Appendix* therewith, referring the Reader rather, for his further ſatisfaction, to the King's Large Declaration, *page* 375, unto *page* 401.

Not

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King's Declaration, *f.* 402, 403, &c.

Not long after this Proclamation and Proteſtation, the King's Commiſſioner (ſeeing all things tending to a preſent Rupture) began his Journey, according to the leave granted him by his Majeſty for his Return. After which time, and ever ſince, the *Scots* have throughout the whole Kingdom, by threats, made the Acts of their unlawful Aſſembly to be received, in many Places have perſwaded the reception of them by Force and Arms, have levied Souldiers, and impoſed Taxes upon the King's Subjects for paiment of them; have required of the Judges, or Lords of the Seſſion, to approve their Acts, though none of them conſented thereunto, have threatned and menaced them for refuſing of it; have raiſed divers Fortifications in our Kingdom; have blocked up our Caſtles and Forts; and now at laſt forcibly taken our Caſtle at *Edinburgh:* Have at home got their Preachers moſt ſeditiouſly and rebelliouſly to teach the People, That there is a neceſſity of their carrying Arms againſt his Majeſty, under pain of Perjury and Damnation; have ſcattered abroad, eſpecially here in *England*, divers infamous Libels juſtifying their own wicked and rebellious Courſes, inciting the People of *England* to attempt the like Rebellion, and to deface our Eccleſiaſtical Government.

One of them, upon the Commiſſioner's coming home, *Prayed God to deliver them from all crafty Compoſitions.* Another refuſed to pray in the Church for Sir *William Nesbett* late Provoſt of *Edinburgh*, when he was lying upon his Death-Bed, only *becauſe he had not ſubſcribed the Covenant.* Another *prayed God to ſcatter them all in* Iſrael, *and to divide them in* Jacob, *who had counſelled us to require the Confeſſion of Faith to be ſubſcribed by the King's Authority.* Many Miniſters would not admit to the Communion thoſe who had not ſubſcribed their Covenant, but in their Exhortation before it, barred them in expreſs tearms with *Adulterers*, *Slanderers*, and *Blaſphemers*, *&c.* Others would not ſuffer Children to be Baptized in the Churches of thoſe Miniſters who were not of the Covenant, though they were their own Pariſh Churches, but carried them ſometimes many miles *to be baptized by Covenanting Miniſters.* One preached, *That all the non-ſubſcribers of the Covenant were Atheiſts*; and ſo concluded, That all the Lords of the Council, and all the Lords of the Seſſion were ſuch, for none of them had ſubſcribed it. Another preached, *That as the Wrath of God never was diverted from his People, until the ſeven Sons of* Saul *was hanged up before the Lord in* Gibeon; *ſo the Wrath of God would never depart from that Kingdom, till the twice ſeven Prelats* (which makes up the number of the Biſhops in that Kingdom) *were hang'd up before the Lord there*; which is extream foul and barbarous. Another preached, *That though there were never ſo many Acts of Parliament againſt the Covenant, yet it ought to be maintained againſt them all.* Another delivered theſe words in his Sermon, *Let us never give over till we have the King in our Power, and then he ſhall ſee how good Subjects we are.* Another in his Sermon delivered this, *That the bloodieſt and ſharpeſt War was rather to be endured, than the leaſt Error in Doctrine and Diſcipline.* Another in his Sermon wiſhed, *That he and all the Biſhops in that Kingdom were in a bottomleſs Boat at Sea together; for he could be well content to loſe his Life, ſo they might loſe theirs*, &c.

Titles

Titles of PROCLAMATIONS, *&c.*

Pro Anno 1638.

A Proclamation for the apprehenſion of *Gilbert Carr* and *James Locker.* — *Whitehall,* April 3.

A Proclamation that all Woollen Clothes and Stuffs, made or mixed with Wooll, and brought to *London* to be ſold or tranſported, be firſt brought to *Blackwel-Hall*, there to be ſearched. — *Whitehall,* April 16.

A Proclamation for reſtraint of the unlawful Sale and Tranſportation of Engliſh Horns. — *Whitehall,* April 20.

A Proclamation to reſtrain the tranſportation of Paſſengers and Proviſions to *New-England* without Licenſe. — *Whitehall,* May 1.

A Proclamation for allowance of the uſe of Hard Silk in ſome ſpecial Manufactures. — *Whitehall,* May 18.

A Proclamation touching the Corporation of Bever-makers of *London*, and to reſtrain the importing of Foreign Hats, and the wearing of Demy-caſters within his Majeſty's Dominions. — *Whitehall,* May 26.

A Proclamation for the free and lawful uſe of Maulting. — *Greenwich,* June 18.

A Proclamation concerning Playing-Cards and Dice. — *Greenwich,* June 18.

A Proclamation appointing the Times for his Majeſty's healing of the Diſeaſe called the *King's Evil.* — *Greenwich,* July 1.

A Proclamation for the well-ordering the Trade and Vent of Wines throughout the Kingdom. — *Greenwich,* July 15.

A Proclamation for reſtraining the Importation of Lattin Wire into this Kingdom, and for ſupport of that Manufacture here. — *Oatlands,* Auguſt 19.

A Proclamation for ſuſpending the time of healing the Diſeaſe called the *King's Evil*, until *Eaſter* next. — *Oatlands,* Septemb. 2.

A Proclamation for reforming ſundry Abuſes in Manufactures of Silks and Stuffs of Foreign Materials made here, or imported from Foreign Parts. — *Bagſhot,* Septemb. 5.

A Proclamation for the due aſſizing of Bread. — *Weſtminſter,* Novemb. 19.

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Whitehall, Novemb. 25. A Proclamation providing for the relief of maimed, Shipwrackt, and other diſtreſſed Seamen, their Widows and Children.

Whitehall, Jan. 11. A Proclamation for the prizing of Wines.

Whitehall, Feb. 9. A Proclamation for the well-ordering and making of White Starch within the Realm, and for reſtraint of the Importation thereof from Foreign Parts.

Weſtminſter, Feb. 19. A Proclamation concerning Tin, and to reſtrain the importation thereof from Foreign Parts.

Whitehall, Feb. 27. A Proclamation and Declaration, to inform Our loving Subjects of Our Kingdom of *England*, of the ſeditious practices of ſome in *Scotland*, ſeeking to overthrow Our Regal Power under falſe pretences of Religion.

Whitehall, March 22. A Proclamation for reſtraint of Diſorders in Souldiers preſſed, and to be preſſed for his Majeſty's Service.

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